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# PULLING TOGETHER FOR SOCIAL SERVICE[1]

I HAVE taken as the subject for my remarks "Pulling Together for Social Service" the title of a booklet published by the Chicago Council of Social Agencies describing its aims and its methods, partly because it is a good title and partly because, being a familiar title, it justifies me in restating some familiar ideas. The annual meeting of an organization is, I suppose, an appropriate occasion for clothing old thoughts in new phraseology; and a useful purpose will have been served if, as a result, new meanings and insight are found to enrich our older conceptions.

The Chicago Council of Social Agencies represents in social work a movement toward federation which characterizes many developments of our times. This technique of forming a defensive and offensive inclusive alliance for the purpose of advancing a common cause may be observed in commerce, in education, as well as in social work; and in social work it may be observed in many cities and in many forms. So general is this tendency that it may well result from rather fundamental elements in our evolving culture, elements which irresistibly and silently shape the decisions of our own particular organizations and, while charitably giving us the illusion of freedom, bind us inexorably in a common development.

In social work in particular, the movement for federation has

[1] An address given at the Annual Meeting of the Chicago Council of Social Agencies, January 31, 1930.

been accelerated by a new emphasis on ends and purposes rather than on means and methods. For example, when those who have at heart the care and protection of orphaned and abandoned children turned afresh to the larger purpose toward which this care was presumably directed, old and outworn methods which had persisted almost as a ritual were discarded, and with them went the isolation that is possible only in an unreal world dominated by obsessive interest in method and technique.

This new emphasis on purpose, this new realism, accompanied and strengthened by the increasing complexity of life, forced a realization of the interdependence of the many activities of social work; and it was seen that in the achievement of a general social purpose, or even of an organization's particular purpose, no one agency could work alone. The haphazard growth of social work organizations, reflecting the needs of various times and the enthusiasms of various people, had naturally failed to produce a system of closely articulated services. The individual social worker struggling with a child, or with a family, or with a neighborhood saw the frustration of particularistic plans and knew that the failures, which were all too frequent, were due to social causes for the control of which some other organization had been or should have been created. Out of such experiences came consciousness of mutuality of responsibility, and your council and other councils elsewhere are the expressions of this consciousness.

The early years in the life of such a council are inevitably given to such commonplace activities as getting the various organizations of a community to know one another better, developing sympathetic understanding and tolerance, and creating a feeling of comradeship that may be the basis for confidence and respect. Many accomplishments of a visible and tangible nature become possible in eliminating duplication and overlapping when it exists, in providing for common services, such as in purchasing and in operating the Social Service Exchange, and in facilitating intercommunication between organizations which leads to combined effort. Valuable experience is exchanged on such practical matters as the raising of budgets and the recruiting of personnel.

All these activities are worth while, and they alone would justify

abundantly a federative development, but a council can scarcely be said to have arrived at maturity until it is concerning itself actively and effectively in planning of a general character with respect to the social welfare of its community. And in this planning, the point of view of a council will necessarily be different from, though rarely in conflict with, that of any constituent agency. In fact, it is precisely in this difference that a council may realize its highest purpose, in bringing a more general point of view and a more leisurely intellectual effort to the study of a community's problems and to the working-out of recommendations as to what should be done about it.

A council will therefore be concerned not only with the elimination of duplication of effort but with the development of new activities as well. It will be interested in the long future, and in some cases its plans may be contrary to the institutional interests of certain of its members. It will be looked to for guidance, and its pronouncements will be received with respect.

As a general board of strategy for the community's social work, a council finds that, like the individual social work organization, it cannot work alone. The larger problems which it must face—unemployment, housing, delinquency—cause it to join with other groups, with the chamber of commerce, with the city and state governments, with religious and educational bodies, in formulating still more general and more far-reaching programs for the community's betterment. And in participating in this larger planning, a council, to be effective, must not only be well informed, intelligent, and far-seeing, but it must be known to represent the views and the aspirations of the agencies of which it is composed.

There is no gainsaying the fact that a council of social agencies, on arriving thus at its full strength and maturity, is a powerful organization. It is a very powerful organization. Yet its power inheres in the very nature of the function which must be performed. It is in the interest of accomplishing the purposes which each agency exists to further that a council be powerful, as powerful as it can be made.

The creation and growth of an organization with such potentialities for authority and influence is properly watched both by those within and those without with a critical eye. We must be sure

that power does not come before wisdom, that the field of jurisdiction is defined, that a council realizes and accepts its rôle as servant and not as master. The administrative personnel must be tested and must acquire the confidence of the community.

Nevertheless, a council is almost sure to face obstruction, delay, and grudging co-operation from a certain number of member and non-member organizations for reasons other than those of reasonable prudence and legitimate conservatism. Under these worthy masks will be found from time to time the most irrational jealousies, sensitiveness to possible infringement of vested interest, and bitter personal animosity. More subtle and even more effective is likely to be the restraining influence of organizations whose activities for social welfare have come to be the means whereby the organization maintains its own prestige and favor in the public mind. All who are working sincerely to advance the welfare of the community will have their wisdom taxed to the utmost in discriminating between those who honestly are not yet persuaded that the time has come to release the forces potential in a council and those who selfishly express identical sentiments to protect their personal or institutional status.

If the central function of a council of social agencies is the planning function, what is the source of the wisdom from which these plans are to emerge? Certainly they will not come ready-made out of books. Nor will they arise solely as the inspiration or hunches of the most experienced of social workers, executives, or trustees, although experience and inspiration are invaluable in the formulation of any plan. Nor, unfortunately, can these plans be found by the simple device of bringing in an expert from outside. The planning function of a council can be performed only through the development of a program of research and investigation that will be directed toward the community's needs. Some of this research can be done in the social science departments of universities, but much of it will have to be done by the council itself; and it is likely that a large, perhaps the largest, item in the council's budget will be the item for research. The New York Welfare Council, for example, in 1929 had total expenditures of $210,000, of which $106,000, nearly 51 per cent, was allocated for research.

The relations between social science research in the universities

and the investigation program of a council should be intimate and helpful. Each has much to give the other. The university, at its best, provides keen minds, with broad background and impersonal detachment; and the council through its member organizations can give a wealth of realistic experience and a richness of contact with social phenomena that the university has frequently sought in vain.

But there are limitations on what university and council can do in such collaboration, and it is well to be sensitive to these limitations. The council cannot throw open to immature students the doors to personal and delicate situations; it cannot upset administrative arrangements to fit into the university schedule of hours and semesters; it cannot permit indiscriminate publication; it cannot indulge too generously academic propensities to protracted deliberation. The university, on its side, cannot deliver its professors for the study of problems in which they are not interested; nor can it properly exploit its graduate students to provide statistical and clerical labor on routine jobs of fact-collecting; nor can it issue "timely" statements nor champion a cause which the council feels to be the right.

The university can serve best by enabling its social science faculty to have a certain freedom of movement; release, when necessary, from routine classroom engagements; and complete assurance as to the right to express whatever the findings of research may be. The social scientist, in taking an interest in the community's problems, can contribute most by selecting for attack a number of strategic situations of general significance and by providing background and comparative judgments, a source of objective and informed opinion on such questions in day-to-day activity as may fall within his field.

It is clear that a university cannot properly meet a council's full needs for fact-finding and investigation. Special provision must be made in order that studies which may have important administrative values and slight scientific implications are expeditiously handled. And this provision is probably best made by engaging competent research talent for a council's own staff. Close association with university facilities can be maintained by inviting members of university faculties to join the council research committee; and the

director and perhaps several members of the council research staff should be persons of sufficient competence to justify part-time faculty appointments.

It is generally recognized, both in this country and abroad, that here in Chicago is being developed one of the great world-centers of social research and social teaching. The participation of your council in this work has long been most helpful, and it will be essential in the future just as it has been in the past. The social sciences urgently need the data, the contacts, the experience which you can provide; and you, in providing them, will receive the benefits of increasing wisdom concerning social work. The contribution that can be made here, both to social science and to social service, will be of far more than local significance.

A council, in its general planning for the welfare of its community, must face the whole problem of the relation between public and private support and administration of various social service activities. It must arrive at some proximate answer to a number of rather fundamental questions. What is the most effective use of private funds as compared with public funds? Should public and private money be used indiscriminately for the same social welfare purposes? If there are differences, what are these differences from the standpoint of theory? And, granted the possibility of satisfactory theoretical discrimination, to what extent can or should these differentiations be applied in practice at any particular time?

An examination of the general problem presented by the use of public and private funds for various social service activities reveals at once certain striking differences in the character of these funds. The first, and perhaps most important, is that public support is a compulsory assessment on all the people determined by the assent of a majority of the taxing body, whereas private support is essentially a free gift, determined both in amount and object by the donor in terms of his own intelligence, information, preferences, and mood.

From this difference flow certain consequences. Public support is coercive on a minority. It should be used only for such objects as can clearly be shown to represent public responsibility or general public benefit. For such objects, public support probably distributes the burden more equitably.

Public support is less educative to the community. It does not produce an awareness of the totality of community life; nor does it inform the community respecting social maladjustments that it would perhaps prefer to forget. And if there is a moral value for the giver in giving, there can hardly be said to be one in paying taxes, even if the money finally goes for charitable purposes. It is important to preserve the educational and moral values that arise through voluntary gifts for the advancement of a social purpose, and to provide a medium whereby our feeling of common humanity can find varied expression.

A second important fact is the enormous difference between the total amount of the tax burden and the aggregate contributions from private sources. Taxes in Chicago and Cook County amount to more than $200,000,000 annually; contributions to the member organizations of this council are less than $18,000,000. Simply from the financial point of view, and waiving for the moment other considerations, the entire program of the members of this council could be supported by tax money with an increase in the tax burden of less than 8 per cent. I make this comparison only to bring out this fact, that in so far as there are activities carried on by these organizations which could be suitably and efficiently taken over on public funds, the financial burden of doing so would be negligible. It follows therefore that private agencies may properly be expected to show good cause why all or part of their program should not be so transferred and that they should strive sincerely to bring about a situation under which these activities may as far as possible be transferred.

A third major factor to be considered in connection with public and private support of social work is the difference in the character of the administration under the different sources of funds, for it is generally agreed, I believe, that public money is more properly expended by public officials than through private agencies. Under the public scheme of things, it is inevitable that the principal executive cannot be expected to have a personal interest in any particular social-work activity; a department head or a bureau head may have such interest, but not the chief executive. The result will be that, with exceptions that cannot be counted on, the work done, no matter how efficient, will lack the enthusiasm and creative experimenta-

tion that can reasonably be expected in a private agency headed by an executive with full responsibility for the achieving of a definite objective. Accordingly, private agencies have a special function and responsibility in maintaining this enthusiasm and flexibility in trying out the experiments that may become the standard procedures of tomorrow.

It is often said, and it may be true, that the general level of competence of the personnel in public welfare agencies is lower than the general level in private organizations. Whatever the situation in the past, the personnel in public agencies is improving, and it will improve more rapidly as private agencies continue to bring pressure for better public service. The professional schools of social work are giving more attention to the problem of training for public positions, and this will have a wholesome influence. As the general level of public administration is raised, the question of mere competence will become less important in discussions of whether a particular piece of work should be publicly or privately managed.

Certain broad generalizations may be ventured. It would seem that, ideally, public money should be used for all social service work for which there is general acceptance of public responsibility and in which the objectives to be gained and methods of work are reasonably well understood. It would seem that, in general, private funds are most appropriately used for work of a novel or experimental character or for activities which are not generally accepted as a public responsibility. Even for activities where public responsibility is recognized, it is useful to have a certain amount of privately supported work of similar character as an aid in maintaining high quality and efficiency of operation in public work.

The rôle of the private agencies in such a program is a difficult and an important one. It is their task to maintain the adventurous spirit, to suffer the failures of the inevitable unsuccessful experiment, to pass on to others the work that they have learned to do well.

Lest there be any misunderstanding, let me say parenthetically that I am not looking forward to the substitution of the state for the family, church, or voluntary association as the major influence in shaping our ideals and our patterns of behavior. I am only suggesting that in the field of social work thought should be given to the

most fruitful use of available resources in order that we may achieve most rapidly our major objectives.

One gain that might come from increased emphasis on public support of welfare work is increased attention to preventive programs at public expense. As the public bears more completely as a tax burden the current expense of purely ameliorative work, there will be more incentive and more convincing justification for expenditures and programs that will reduce this expense. As matters stand, the cost of activities of a purely remedial nature is staggering. Would it not be refreshing if some state should hopefully announce in submitting its plans for a new prison that the building is so designed that it can easily be converted to other public uses when it is no longer needed as a prison? Adequate preventive programs of a social character will come more rapidly when the true costs and true character and the futility of our continual patching and repairing are more completely understood.

It is interesting, and I hope not too misleading, to think of society as a business concern with certain expenses for administration, with outlays for extension of productive plant and equipment, and with certain charges for depreciation, depletion, and obsolescence. Our expenditures for social welfare work are comparable to a considerable degree to these charges for depreciation and obsolescence.

There are many mysteries in accounting that have not been revealed to me, but this much I understand—that depreciation, depletion, and obsolescence go on whether they appear on the books or not, that cumulative depreciation mounts more rapidly than compound interest, and that a concern that cannot earn its depreciation charges is headed for bankruptcy, whether it is paying dividends at the moment or not.

I also understand that the test of whether the depreciation charges are adequate for the particular business is not in the appearance of the balance sheet but in the condition of the plant. If we look at the society of which we are a part, and not at our budgets, we have some cause for uneasiness. There are too many signs of deterioration and obsolescence. We have too much delinquency, too much insanity, too much unemployment, too much dependency. Our housing is outworn; our city plans are obsolete. We are paying

dividends, but are we earning our depreciation charges? Certainly our plant is not in good condition. And unhappily, unlike a business, there is no one to whom we can sell out, unless it be to our own children.

And to whom can we turn to appraise this situation? Who will certify to our solvency? Who will draw up the plans that will enable us to attack the fundamental weaknesses of which as yet we see only the symptoms clearly? It is too large a task for any social agency to undertake alone. Pulling together for social service means planning together for social service; and in this effort, individuals, social agencies, civic bodies, universities, and governments must play their parts. You have here in your council machinery that will help to bring these forces together; only through their joint efforts can we hope for the emergence of the social city plan.

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# THE COUNTY VERSUS THE COMMUNITY AS AN ADMINISTRATIVE UNIT[1]

IN DECIDING where the administration of our public social services should be lodged, we need to consider the relative merits of the state, as well as the county, and the community. For a program requiring the expenditure of public funds our choice is limited from a practical standpoint to units already established by law and empowered to lay and collect taxes; it is complicated by public preferences for certain units—preferences that have their origin in tradition or political slogans rather than consideration as to what agency can in fact best undertake the services contemplated.

Historically we began with the theory of local responsibility for our social welfare program. In New England the town was the accepted administrative unit for poor relief, while in most of the other sections of the country the county was given this responsibility. This tradition of local responsibility came to us by inheritance from England, where each parish was responsible for its own poor. Moreover, local responsibility was in line with current political thinking, which had come to associate "local responsibility" with "democracy" and "robust individualism," and to regard "centralization" in the state or federal government as implying denial of freedom and loss of individual initiative.

Although the theory of local responsibility has behind it sound political and social doctrine, nevertheless in both the United States and England it has frequently furnished the explanation of neglect and of shameful incompetence in the care of the socially, mentally, and physically handicapped groups. England has at last succeeded in abolishing the local Poor Law boards and concentrating the administration of its social services in the county councils.

In the United States whenever investigation has shown that certain services can best be performed by the larger unit the political as well as the social aspects of a transfer to the state have been much discussed.

[1] Paper read at the joint meeting of the National Community Center Association and of the American Sociological Society, December 28, 1929.

When Dorothea Dix began her agitation for state hospitalization of the insane of Massachusetts some seventy-five years ago, she was told that to give up the practice of selling the care of the insane to the lowest bidder in every town in the state would be to strike a direct blow at the foundation principle of local responsibility in government. As so often happens, those who had a vested interest in the maintenance of the existing system made themselves the champions of the preservation of our form of government and tried to prevent any losses in their own perquisites by wrapping the mantle of patriotism around them. Those who had no personal interest in either side of the controversy but who were firm believers in local control, and at the same time wanted to improve the care given the insane, seemed to be asked to choose between their political theories and humane care of the insane. In that particular struggle, political theories were abandoned in support of the facts so ably assembled and presented by Miss Dix, and Massachusetts took its first step toward scientific treatment for the insane. Miss Dix met the same argument in state after state, but on her showing of the gross incompetence of the rural counties in the discharge of this responsibility the principle of state care was approved.

Many states have adopted the theory that institutional care of dependent or delinquent children or the physically handicapped should also be a state responsibility. In general the argument for this centralization has been that in the counties the numbers to be cared for and the resources available were not large enough to make possible the employment of trained personnel or the scientific classification of the institution population. The county poor farm has lingered, but its functions are disappearing one by one as better types of care are provided for the different groups it formerly sheltered.

At a time, therefore, when the movement for local self-government—meaning usually urban self-government—was growing in popularity and the state government was losing power and prestige, the state was given new duties in social work and in the promotion of public health. There is no question but that this movement was, in general, in the right direction. The state can perform certain functions better than the local government, but in the performance of these duties it has become increasingly clear that the functions

of the state and the local community must be made a correlated state and county responsibility. For example, the practice has developed in a number of states of committing to state institutions dependent or delinquent children or those mentally diseased when institutional commitment is clearly not the best method of care, but, from the standpoint of the county, the cheapest method of treatment. At the present moment, therefore, interest has swung from discussion of the functions that the state should perform independently to consideration of the state in relation to the local administrative unit.

With the growth of interest in prevention, the efficient functioning of the local unit in health and social service has become more important. Today we are asking what should be the relation of state and local government in this field, as well as which local unit, the community or the county, should be utilized for carrying out the programs that are taking shape. The large urban centers have almost universally established their own municipal health services. Private social agencies have usually been city organizations, but for the public social services the county has remained the common unit of organization. At the present time experts in both the health and the social field favor the development of the larger unit—the county —for local administration.

A new and genuine interest in rural health and rural social problems has added to the prestige of the county as the local administrative unit. In order to serve both rural and urban communities, it has been necessary to utilize the larger unit. Moreover, except for the larger cities, trained, professional personnel, now recognized as necessary in both fields, can be provided only when the larger taxing unit is made locally responsible. Today there are more than four hundred full-time county public health units, 80 per cent of which have had or still have the assistance of federal, state, or foundation subsidies. Most of these full-time county health units are in the South, where a long struggle with malaria, hookworm, and more recently with flood conditions has educated the public as to the need of an efficient, permanent local organization, and in the West, where new forms of public organization are more easily introduced. In the child welfare or public welfare field, as it is often called, more than three hundred counties have undertaken a county-wide pro-

gram without subsidy by the federal government or by the foundations and usually without a state subsidy. In the organization of full-time child welfare or public welfare services on a county-wide basis, New York, Minnesota, North Carolina, Alabama, and California have led. The trained personnel which this work requires has not been employed in all the county welfare units established, but trained personnel is employed in a sufficiently large number to warrant the statement that the movement for an efficient functioning of the county as the local administrative unit in both health and social service is well under way.

With this general decision in favor of the county, there remains the question of the relationship of the state to the county and of the community to the county. In general the state departments of health and of public welfare are taking the leadership in promoting the establishment of county units and are developing a new technique of service to the counties. The general educational work as to needs and methods of organization is done by the state; the state loans to counties not able to employ a full corps of experts trained and experienced personnel for demonstration or for assistance in special problems. In social service there is frequently co-operation between state and county in difficult case work; the transfer of the records of clients who move from one county to another is effected through state machinery; and interstate aspects of local problems are usually the responsibility of the state. The state has also been helpful in raising the standards of the work by urging or, when the law allows, by requiring the appointment of trained personnel and by encouraging local officers in their struggles with the selfish local forces that would destroy or render inefficient the county program.

Whether or not the co-operation between state and county should take the form of state subsidies for the local work is also being much discussed. The counties are, of course, unequal in size and still more unequal in wealth and in the number and efficiency of the local private social and health agencies. The same sacrifice in the form of taxation brings very unequal returns in county A as compared with county B, and the poorer county, particularly in mining and small industrial districts, often has more social and health problems than the wealthier community. The collection of funds from the state as a whole and its redistribution to the counties

can help to equalize these differences and make possible an approximation of equality of treatment. State subsidies for education under one form or another are being generally adopted or greatly increased in amounts. For example, in New York appropriations for state aid to local education increased from approximately $7,5000,000 in 1919 to more than $86,000,000 in 1929. Eleven of the states are now paying one-third or more frequently one-half of the local cost of mothers' allowances for the care of dependent children in their own homes. Why not then assistance in providing other kinds of social service, for example, probation officers, since an adequate probation service not only would provide better care for delinquent children but would reduce the number of commitments to the state institution for delinquent children?

I have said that the counties differ in size and wealth. Their boundaries were, of course, often fixed because of political reasons rather than community of interests. Moreover, a county which was once a well-integrated social and political unit may have changed greatly with industrial and other developments. In general, then, the county is a series of communities, not one community. It is, therefore, in point to ask whether this selection of the county as the local administrative unit means that the values that come with an organization around local community interests are to be lost? Quite clearly, they are so far as control of the services through taxation and appointment of supervising personnel is concerned.

But in planning for the administration of these services, the resources and values of the community may be fully utilized by the county health officer or the county child-welfare agent. Probably Los Angeles County, with its community buildings in which the child-health center and other health services and public social agencies are housed, has utilized the community as the basis for organizing county-wide services more completely than other counties. Here community of interests and needs rather than financial resources are the important considerations. The child-health or prenatal conference for a Mexican community is held in the Mexican settlement where it is easily reached by the mothers; either a nurse from their own group or an interpreter is available; food habits of the group are considered in the diets recommended; and the program in general is interpreted in terms of their customs and needs. The special

needs of other communities in which a mixed population or an all-American population lives can be planned at other centers. Participation of the community in making the plans, studying the needs, and securing support for the program becomes easily possible under such a scheme through the organization of local advisory committees.

In other words, state aid does not necessarily mean that a program is imposed upon the county by the state, nor does county aid mean that a ready-made program is imposed on the community by the county. If those who are in charge of the work understand the importance of making a program really serve local needs and of local participation in planning and carrying out the program, community feeling and community resources will be utilized. As the community can be organized around the school which is a branch of a city or a county system, so it can be organized in connection with a social or health program. The community boundaries are, of course, not fixed by law and can be changed as population and other changes create new communities or destroy old ones. In the administration of the maternity and infancy act, the states have found that even in counties having a very sparse population, so that a "neighbor" resides thirty or forty miles away, it is especially important to utilize such community spirit as there is in planning and developing the work.

To summarize, experience warrants the conclusion that the states should be completely responsible for certain social services, and particularly for institutional treatment, provided that this is not allowed to interfere with the development of a local preventive program or discourage the choice of the best possible treatment of the individual child. For the proper functioning of a preventive program which requires early and direct contact with the individual, an efficient county organization is essential. The state departments of health or social welfare should assist in developing the necessary county services and should co-operate with the local units by loaning personnel and contributing to the cost of the local services. The county unit can more effectively carry out its programs if it conserves and utilizes the community.

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# DOMESTIC RELATIONS COURTS—A STUDY IN AMERICANA

LEGAL institutions are anthropological data. Their growth, the ideas they represent, the substantive law they interpret, as well as the attitude of the community toward them, are good evidence of the nature of the group in which they are placed. A visitor from Mars could learn a great deal about the American people from a study of such an institution as their courts of domestic relations.

His study would have to be undertaken with the thoroughness and detachment characterizing all such Martian investigations. If the putative society of his planet still needed lawyers, and if our visitor were a representative of that group, he would have to subordinate his professional interest to his biological curiosity.

A mundane report on *The Child, the Family, and the Court*[1] has recently been published by the Children's Bureau of the United States Department of Labor, which attempts to survey the administration of justice in the field of domestic relations. It is not the purpose of this article to review that report or to reiterate the conclusions therein stated, but the report itself throws into sharp relief certain American characteristics. It is impossible to achieve an other-planetary aloofness in surveying ourselves, but it may be possible to forget legal implications and criticisms and to consider some of the findings of the report as pointers to our group mind and nature.

The substantive law of domestic relations roughly, although by no means exactly, reflects our domestic standards of conduct—not, of course, our family customs. The reflection is most inaccurate in matters of divorce. Our Martian guest would be amazed at the discrepancy in causes for divorce among the forty-eight states of a supposedly homogeneous people. He would be still further amazed if, by some Martian omniscience, he could detect the discrepancies

[1] This report was reviewed by Professor Ernst Freund, of the University of Chicago Law School, in this *Review*, III, 707.

between the real causes of divorce and the legal grounds assigned. However, it is the way the juvenile court laws and the laws of domestic relations are administered, the courts and staffs dealing with families, their growth and place in the community, and the people with which they deal to which the man from Mars must look for indications of the American character.

### THE SPIRIT OF THE PIONEERS

The history, indeed the very existence, of our courts of domestic relations and the juvenile courts from which they largely take root shows the idealism of the American people. Our juvenile courts date from the beginning of the century. Our domestic relations courts date even later. Yet there is a juvenile court in every city of one hundred thousand or more, and the number of family courts is already considerable, and is growing. These courts represent an innovation in legal institutions—and law is the most conservative of all the sciences. They serve no vested interest, they produce no profits. In their advance, they had to storm the bulwarks of legal inertia, particularly resistant to procedural change. Yet these courts are here, because they represent an ideal, a step in legal progress. Whether they are living up to the expectations with which they were established is not the point. They represent the idea of adapting the processes of the law to the human needs of children and families, and the nation has taken to that idea with a speed and an enthusiasm not generally associated with a people entirely materialistic.

These courts are evidence of American ingenuity as well as of American idealism. While juvenile courts were established in other countries before the close of the last century, it is in this country they have had the most rapid growth, and, in general, their greatest development. In a sense, juvenile and family courts represent the application of the frontier spirit to legal ways. There is no more striking example in the law of the adaptation of an institution to changed, or newly realized, conditions. The change in procedure effected by these institutions is summarized in *The Child, the Family, and the Court* as follows: "The distinction between the new procedure and the old common-law ways can not be overemphasized.

The old courts relied upon the learning of lawyers; the new courts depend more upon psychiatrists and social workers. The evidence before the old courts was brought by the parties; most of the evidence before the new courts is obtained by the courts themselves. The old courts relied upon precedents; the new courts have few to follow. The decisions of the old courts were reported, studied, and criticized by lawyers, and their rooms were filled with lawyers; the decisions of the new courts are seldom reported, and their hearings are attended by probation officers trained in social service. The judgments of the old courts were final, save for appeal; in the new courts appeals are infrequent, and the judgment of the court is often only the beginning of the treatment of the case. In the old courts the jury was a vital factor; in the new courts, in practice, the jury is discarded. The system of the old courts was based upon checks and balances; the actual power of the new courts is practically unlimited. Justice in the old courts was based on legal science; in the new courts it is based on social engineering." As the mayor of one of our large cities told a proud juvenile who had distinguished himself by sitting upon the top of a flagpole for a number of days and nights, it shows that "the old pioneer spirit of early America is being kept alive."

## "THERE OUGHT TO BE A LAW"

As remarkable as our idealism and our ingenuity in establishing these tribunals is our neglect of them after they have been established. A large part of *The Child, the Family, and the Court* is directed to a dispassionate survey of the discrepancies between the standards of proper legal handling of domestic problems and the actual conditions. Family courts call for judges and officers who are fitted by nature, education, and experience for the treatment of the most difficult and delicate problems. In large part, the communities in which such courts are located act upon the theory that the best way to secure such men and women is by underpayment and overwork.

One of the most important conceptions of the new judicial technique supposed to be applied in these tribunals is the thorough preliminary investigation of cases before the court hearing. In only a small proportion of the courts studied by the Children's Bureau

were the officers not overloaded with more cases than they could adequately investigate. In only one-quarter of the courts studied was there even fairly intensive probationary supervision over children. Social records were found to be markedly inadequate. Facilities for caring for children who had to be provided for outside of their own homes were found to be deficient. Few of the courts studied had made adequate provision for physical and mental examination of either children or adults—one of the keystones of the new technique. The report concludes as follows: "Finally, there emerge from this study the significant facts of overlapping jurisdictions, inadequacy of treatment, and other failures of law to meet the family problems coming within its scope. . . . ." In short, the new judicial technique embodies a splendid theory, and, in the case of many of these courts, remains a theory.

Public interest often, if not generally, exhausts itself with the foundation of juvenile or family courts. If such experiments are to succeed, they must be adequately financed, and, above all, must be carefully watched and intelligently criticized. Many of our communities fail in both requisites. The courts are there, legally established—what else need a forward-looking people do?

These conditions are by no means universal. Some of our juvenile and family courts are properly supported and well administered. But there is a widespread failure to realize that no institution can run itself, that the more far-reaching the reform, the greater must be the interest in and supervision of its workings. It has been noted in other connections that, as a people, we like to believe we can improve our civilization by the passage of a law.

## EFFICIENCY

As a people, we are supposed to be adepts in machinery. If this be the case, the Children's Bureau study would indicate that our efficiency is largely confined to contraptions of iron and steel. Certainly we have not distinguished ourselves as technicians in our judicial machinery, in so far as domestic relations courts are concerned. "To eliminate piecemeal justice in the field of domestic relations has been one of the aims of the family-court movement. Evidently there is a real problem in the overlapping of jurisdiction

in cases involving the law of domestic relations, in that a number of courts may be passing upon different phases of the same family problem.

"This country seems to take a peculiar zest in the formation of new courts. Many States have courts which do not coordinate with the other judicial units but whose jurisdiction overlaps theirs in almost every particular; and the cure for this situation is often taken to be creation of another court. This condition is by no means nation-wide. In some jurisdictions there is real evidence that the business aptitude for organization for which Americans are supposed to be famous has permeated into the judicial system. In others there is a marked lack of coordination."

As a sequel to the first part of its study, the Children's Bureau has in press an *Analysis and Tabular Summary of State Laws Relating to Jurisdiction in Children's Cases and Cases of Domestic Relations in the United States*. This report shows in detail the judicial machinery by means of which affairs of the family are treated by the law. Cogs and wheels there are in plenty, wheels within wheels, not always connecting, many gears, which do not always mesh. There are some good judicial machines in this particular, a number of poor ones, some exhibits of unassembled parts, and cases in which there are not even parts. On occasion, we meet the surprising phenomenon of a very good working arrangement for the hearing and treatment of children's and adults' cases with a minimum of legislative framework. In other cases, we see magistrates' courts, criminal courts, orphans' courts, equity courts, and juvenile or domestic relations courts all nibbling at the problem.

On the whole, it might be well to explain to our Martian guest that we have been so busy merging our industries we have not had time to correlate our judicial tribunals.

### SWEEPINGS

In a recent novel dealing with an American family, the father, who has worked his way to the ownership of a huge organization, and whose children, in one way or another, are failures, goes to the basement of his store and sadly views the discarded bits of fabric, sweepings from the bright finished products in which he deals. In

our juvenile and family courts appear the human sweepings from the bright fabric of our civilization. These are not the only cases, but before these courts come, for the most part, the flotsam and jetsam, the families which have disintegrated, children, neglected or deserted, stumbling along the footpaths of crime. Through these courtrooms march the people who have not fitted, the waste by-products of the machine.

We administer our laws, give these people doles, advise them, examine them, put them on probation, sentence them. We call in our charities, our churches, deal justice, and sometimes mercy. For many, especially the children, much may still be done. Yet law, at its best, cannot hope to reconstruct society. Justice between man and man cannot cure the sore spots in our economic and social system. At the most, it can help some of the infected. It is a good thing and a necessary thing that, faced with these problems, the law is doing what it can to adjust its processes to the conditions. But what a commentary upon our prosperity is this endless procession of children whose parents do not care enough or know enough or have enough to give them the start to which they are entitled, these widows, unable to support themselves and their families, these husbands and wives, struggling to escape the chains of ignorance, drudgery, and want!

Do not let our man from Mars watch this procession too long. It might be better to give him another vista of America, to hurry him to the Woolworth Building and the plant at River Rouge.

REUBEN OPPENHEIMER

BALTIMORE, MARYLAND

# ECONOMIC MYTHS[1]

## MYTHS IN PRIMITIVE LIFE

MYTHS have always been resorted to for explanation of economic phenomena. As we come to know primitive peoples, we discover the myths by which they account for the prescribed ways in which they carry on the daily round of their existence. Similarly, we read classic literature and delight in the myths elaborated to explain the customs of ancient societies. But it does not occur to us that our own explanations of the economic activities of today are built upon myths. We naïvely assume that since we belong to a modern sophisticated society we have long ago substituted scientific principles for myths and that, unless it be in connection with our religious and aesthetic experiences, we reject myths in our interpretations. Yet it should be clear that a myth does not really become something else by the simple device of calling it a "natural law," and we do in fact still retain a fairly extensive economic mythology.

A myth is believed. Durkheim[2] distinguishes myths from fables, which are not believed, at least not in the same literal way. Malinowski[3] speaks of myths as "stories told with a serious purpose in explanation of things, institutions, and customs." The literature of anthropology abounds with myths which make clear just how the traditional methods of agriculture, handicraft, and barter first came about and why they must be continued. An example may be found in the refusal of the Menomini, an Indian tribe of Wisconsin, to sow wild rice, as do their brothers, the Ojibwa, although this crop is a very important staple for them and their tribal name is derived from it. It appears that

while the young tribe lived on Menominee river, the boundary between the upper peninsula of Michigan and Wisconsin, Mä'näbŭsh, a half-man, half-god

[1] This article was given as one lecture in a series of six under the Forbes Lectureship of the New York School of Social Work in 1929. It is shortly to appear in a volume containing the series to be published by the School.

[2] Emile Durkheim, *The Elementary Forms of Religious Life* (London, n.d.), p. 83.

[3] Bronislaw Malinowski, *Sex and Supression in Savage Society* (New York, 1927), p. 108.

mythic creation of the tribe, gave to them the extensive fields of wild rice along Menominee river and told them that they would always have the grain. The tribe has moved twice during historic time—first to the vicinity of Lake Winnebago, Wisconsin, and then to their present reservation north of the lake. They claim never to have sown the grain, because, they say, if Mä'năbŭsh wanted them to have it, he would provide it.[1]

The Hawaiian fisherman plants stones in the sea in order that fish may be more abundant. They swarm about the stone as a magnet and this is because

Kuula, the famous patron of the fishing industry in Hawaii, was a stone. The legend relating to him states that he was a fisherman of Maui, who was killed when falsely accused of insult by King Kahoalii. After his death Kuula assumed a "fish body" and later apparently he turned into a stone. Kuula's wife, Hina, and his son, Aiai, also turned into stone "fish gods." Of Hina, it is said that she is "a real stone, which exists to this day," controlling certain kinds of fish.[2]

The Zuñi Indians obtain the necessary rain for agriculture by means of an elaborate ritual during which a great volume of smoke is produced. This is to protect and mask the departed dead, the *u'wannami*, who are the rainmakers. These shadow people collect water in vases and gourds from the six great waters of the world. From these waters steam arises and wafts the shadows to the upper plane, provided they are supplied with breath plumes. Each *u'wannami* grasps a bunch of these plumes and arises to the upper plane from which they pour down water through the clouds according to the supplication of the Zuñi. But they must be protected from the sight of the people by the clouds and smoke and "the greater the smoke offering, the greater the inducement for the rainmakers to work."[3]

The elaborate ceremonial of the Cheyenne's Sun Dance, lasting many days, has for the tribe the significance of making their economic activities successful. Dorsey says:

[1] "Faith as a Factor in the Economic Life of the Amerind," by A. E. Jenks. Quoted from *The American Anthropologist*, N.S., Vol. II (1900) by C. M. Case in his *Outlines of Introductory Sociology* (New York, 1924), p. 307.

[2] E. S. C. Handy, *Polynesian Religion* (Publication No. 12 of the Bayard Dominik Expedition, Bernice P. Bishop Museum, Bulletin No. 34).

[3] M. C. Stevenson, *The Zuñi Indians* (The Bureau of American Ethnology, Twenty-third Annual Report, 1901–2), pp. 20, 21.

The performance of the ceremony is supposed to re-create, to reform, to reanimate the earth, vegetation, animal life, etc.; hence it would not be inappropriate to speak of the Sun Dance as the ceremony of rebirth or of the renaissance.[1]

In such fashion, we see the economic life of the primitives guided by myths which explain the reasons for doing many things in particular ways. Any other way than the one prescribed by the myth would be certainly attended by failure. The method is not derived by experiment; it is not the result of trial and error; it is determined by a belief, the origin of which is purely mythical.

I want to raise the question as to whether much of our own economic behavior is not, in point of fact, determined in the same way. We are under the same necessity to explain our environment; we have to start out with certain assumptions about it; around these habit and custom collect and make any further questioning unnecessary, we accept the myth, for myth it is although it may take the form of an elaborate piece of reasoning.

### THE MYTH THAT WEALTH IS GOLD

Economics has sometimes been defined as "the science of wealth." A myth older than this study is to the effect that "Wealth is gold." King Midas thought so and at first counted himself fortunate in the gift of Dionysus which turned into gold all that he touched, even his little daughter, so that finally his mind was otherwise. And the alchemists believed the myth. Many lives were spent in the attempt to turn the baser metals into gold. Had they succeeded, their plight would have been similar to that of King Midas. The Spaniards' age-long quest of El Dorado was in obedience to the myth. And when they found gold in the Americas they suffered from too-rapid enrichment and the inflation of their money. Mercantilism was founded on this myth. First advocated in the Middle Ages, it had developed into a great system in the seventeenth century. National states determined their policies so that large hordes of precious metal should be in the public treasuries and in the hands of their citizens, and a "favorable balance of trade" se-

[1] G. A. Dorsey, *The Cheyenne*, Vol. II (Field Columbian Museum, Publication 103, Chicago, 1905).

cured through a flow of gold into the country. But we have lived to see our own country at a disadvantage because *too much gold* was flowing in. At last we have been influenced by what the economists call "the quantity theory of money." The Federal Reserve System may operate to restrict the amount of money in circulation, in its control of notes supported by gold reserves.

### THE MYTH OF THE ECONOMIC MAN

The myth of the economic man was one of the cornerstones on which the Classical Economists built the imposing edifice of their theory. This is the belief that a man will always act from motives of material self-interest. Nassau William Senior, writing in 1836, said that this proposition was

> the cornerstone of the doctrine of wages and profits and generally speaking of exchange. In short it is in Political Economy what gravitation is in physics, the ultimate fact beyond which reasoning cannot go and of which almost every other proposition is merely an illustration.[1]

But physics still has gravitation to rest upon and modern psychology has blown the economic man into very thin air. As Mr. Soule has said:

> The "economic man" is not the counterpart of the apple in a vacuum. Doubtless there are innate and unchangeable determinants of human nature, but modern psychology, biology, and anthropology have shown us that such universal qualities make up a far smaller part of human behavior than they do of the behavior of falling apples. We are not even yet sure what the so-called instincts are.[2]

In other words, we understand today that no one set of motives determines behavior. A man may be a bricklayer, and as a wage-earner in that trade he is impelled to lay bricks that he may receive his wage. But simultaneously he is a member of the Republican party, a "hard-shell" Baptist, and the father of a family of five. His fellow bricklayer may be a Democrat, a Catholic, and a widower, and the manner of laying bricks is usually precisely the same in the two cases. Yet a political, religious, or family motive might at any time overturn the customary economic behavior of either. Men re-

[1] N. W. Senior, *Political Economy*, p. 28.

[2] "Economics—Science and Art," by George Soule, in *The Trend of Economics*, ed. by R. G. Tugwell (New York, 1924).

fuse higher wages to stay in a familiar neighborhood; they refuse to drive a hard bargain with a man who is down on his luck.

### THE MYTH OF LAISSEZ FAIRE

Closely connected with the myth of the economic man is the myth of individualism and the policy of non-interference by the government in any business or trade. This we call laissez faire. It came with the industrial revolution as a reaction to the extreme regulation by the privileged guilds and corporations and the state itself. John Maynard Keynes traced the life-history of this myth in the Sidney Ball Lecture at Oxford in 1924. He confers very distinguished parentage upon it, in the following words:

> At the end of the seventeenth century the divine right of monarchs gave place to Natural Liberty and to the Compact. . . . . Fifty years later the divine origin and absolute voice of duty gave place to the calculations of Utility. In the hands of Locke and Hume these doctrines founded Individualism. . . . . They furnished a satisfactory intellectual foundation to the rights of property and the liberty of the individual to do what he liked with himself and with his own.[1]

He goes on to show its development at the hands of the philosophers until

> to the philosophical doctrine that Government has no right to interfere, and the divine miracle that it has no need to interfere, there is added a scientific proof that its interference is inexpedient.[2]

Then came a bolstering up of laissez faire from a new quarter:

> The economists were teaching that wealth, commerce and machinery were the children of free competition—that free competion built London. But the Darwinians could go one better than that—free competition had built man. . . . . The principle of the Survival of the Fittest could be regarded as a vast generalization of the Ricardian economics.[3]

Adam Smith, the father of political economy, sees behind the unwitting acts of the individual following his own interest an actual providential guidance. In describing his activity he says:

> He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that

[1] J. M. Keynes, *The End of Laissez Faire* (London, 1926), pp. 6, 7.

[2] *Ibid.*, p. 11. [3] *Ibid.*, pp. 13, 14.

industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases *led by an invisible hand to promote an end which was not part of his intention.*[1]

In spite of its ancient and honorable lineage, the economists have renounced the enticingly simple and beautiful theory that laissez faire is the path to universal welfare. This was because the tragic effects of its operation were forced upon their attention. They observed the complications which must be taken into account when we come to deal with large units of production, when production is a prolonged process, and when a monopoly disturbs the balance of bargaining power.

But renunciation by the economists did not affect the surrender of laissez faire as a sanction for the operation of business. It clung with a death grip. At last the wastes of the new factory system in England were found to be too costly to endure, and laws were passed to protect the workers from its unrestricted operation.

The passing of a myth in one part of the world, however, is no indication for giving it up in another, and what is now forbidden in England is still practiced in China. In a memorandum of the Cotton Yarn Association issued in October, 1928, information is given regarding the English factories in China running on two twelve-hour shifts and factories in Shanghai with $14\frac{1}{2}$ per cent of their labor children under twelve years of age.[2]

### THE MYTH OF THE LABOR THEORY OF VALUE

Perhaps the most searching question that the economist has tried to answer is the one that asks how value is conferred upon anything for which a price is paid. To many great minds the answer which seems obvious, reasonable, and right is that in the long run the value of anything is measured by the amount of labor which has been expended on it. Adam Smith said: "It is natural that what is usually the produce of two days' labor or two hours' labor should be worth double what is usually the produce of one day's or one hour's labor." David Ricardo said that labor was "the founda-

[1] Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (quoted from the edition published by Dutton, "Everyman's Library," 1920), p. 400.

[2] Cotton Yarn Association Limited, *Statistical Information concerning Manchester* (October, 1928).

tion of all value." He accounted for the relative values of commodities as "almost exclusively" determined by the relative quantity of labor which had produced them. Karl Marx was another illustrious supporter of this theory.

Many projects have been launched on its assumed validity. One of the best known is the National Equitable Labour Exchange, which was opened by Robert Owen in Gray's Inn Road in London in 1832. To this central bazaar members brought goods they had made and received for them labor notes indicating the number of hours which had been expended in their manufacture. The notes read: "Deliver to the bearer exchange stores to the value of ——— hours." Those receiving them could then buy any article which had required the same number of hours to make. Profit was to disappear automatically. Dominated by the personality and enthusiasm of Robert Owen, the enterprise started off auspiciously. It is related that

> the deposits in the first few days were extraordinarily numerous, so much so that the pavement was blocked; and the stores became so congested that on the Thursday it became necessary to close the Exchange to the public for three days, to admit of the goods already deposited being properly arranged and priced. . . . .
>
> So confident were Owen and his followers of the triumphant success of the experiment that on September 24th a week after the opening, Owen, addressing a crowded meeting of the "unproductive industrious" classes—i.e. the shopkeepers and distributers generally—informed them that the Equitable Exchange would form a bridge over which society would pass from the present to another and better state of things; and warned then to come over before it was too late.[1]

They did come over, but not in the manner Owen anticipated. It transpired that goods which had taken the same number of hours to make were not in equal demand. Shopkeepers advertised that they would accept the labor notes in exchange for their merchandise. These they took to the Exchange and soon emptied it of all that was marketable. After they had stocked their own stores very cheaply, they refused to take more notes. The Exchange, soon unable to meet its obligations, was obliged to close its doors.

The myth breaks down altogether as an explanation of actual and existing values. The desire or demand for goods is not neces-

[1] Frank Podmore, *Robert Owen, a Biography* (New York, n.d.), pp. 408–9.

sarily related to the labor which has been expended upon them. Moreover, no matter how eagerly the first goods were bought, as they were brought in larger and larger number to the market they found fewer and less eager buyers. The labor theory of value is swallowed up in another myth which we call the law of diminishing returns.

### THE MYTH OF THE WAGES FUND

The theory that wages are paid from a fixed fund has had some illustrious supporters. It is pointed out that in our roundabout attenuated system of production, the wage-earners receive their pay long before the goods they make are finished and sold. They receive wages from a sum advanced by capital for this purpose, but as capital is at any time limited, and as the amount they could subtract from profits is limited, wages cannot rise indefinitely, but are limited by the wages fund. Any increase which one group of workers get can be secured only at the expense of another group. The theory was first stated by Malthus:

> It may at first appear strange, but I believe it to be true, that I cannot by means of money raise the condition of a poor man, and enable him to live much better than he did before without proportionately depressing others in the same class. . . . . But if I only give him money, supposing the produce of the country to remain the same, I give him a title to a larger share of that produce than formerly, which shows he cannot receive without diminishing the share of others.[1]

John Stuart Mill made some modifications of Malthus' position. He came to the conclusion that all trade unions are futile, although he held that they should not be denied the right to attempt to raise wages, even though the attempt must inevitably fail.

> If it were possible for the working classes, by combinations among themselves, to raise or keep up the general rate of wages, it needs hardly be said that this would be a thing not to be punished, but to be welcomed and rejoiced at. Unfortunately the effect is quite beyond attainment by such means. . . . . If there had been no combinations in particular trades, and the wages of those trades had never been kept above the common level, there is no reason to suppose that the common level would have been at all higher than it now is.[2]

[1] Thomas Malthus, *Essay on the Principle of Population*, Bk. III, chap. v, pp. 333–34.

[2] J. S. Mill, *Principles of Political Economy*, ed. by W. J. Ashley (London, 1909), pp. 934–35.

And so throughout the first three quarters of the nineteenth century, with more sharpness than characterized Mill, the weight of the objections of the theoretical economists was turned against the efforts of the trade unionists, and the effect of these objections is still felt although the sources of wages are now seen not to be limited to a wages fund.

### THE MYTH THAT A LABOR RESERVE IS NECESSARY

For a long time it was supposed that industry depended on the existence of a reserve supply which could be drawn upon for expansion when conditions favored expansion. This made permanent unemployment appear as a necessary concomitant of the conduct of industry. The accomplishments of management during the war, when there was actual shortage, has damaged this point of view. The swing is now all in the direction of stabilization of employment in order to avoid the high cost of labor turnover.

### THE MYTH OF THE IRON LAW OF WAGES

The iron law of wages, or the "brazen law" as Lassalle called it, is the most dismal of all the economic myths. It is the contention that wages will always tend to fall to the point where they will be just sufficient to keep the worker alive. As soon as they rise above this point the population will increase and competition for the additional laborers will press wages down to the subsistence level. Thus the worker is at the mercy of causes over which he has no control. Gide, picturing him as the creature of this assumption, says:

> He is at the mercy of a fatalistic law, and is as helpless to influence his market as a bale of cotton. And not only is the law independent of him, but no intervention, legal or otherwise, no institution, no system, can alter this state of things.[1]

That is, no charity can help him, no dole awarded by the state, for, receiving these, he would merely be ready to work for even lower wages and his income would not have been increased by it. No wonder the liberty-loving Mill who "formulated the law with greater rigor than any of his predecessors," found himself alarmed at its consequences.

[1] Charles Gide and Charles Rist, *A History of Economic Doctrines* (New York, n.d.), p. 361.

Karl Marx, who also propounded the law, was less downcast by it for from it is derived the theory of surplus value which "is the backbone of the social revolution." The Communist Manifesto contends:

> The average price of wage-labor is the minimum wage, i.e. that quantum of the means of subsistence, which is absolutely requisite to keep the laborer in bare existence as a laborer. What, therefore, the wage-laborer appropriates by means of his labor, merely suffices to prolong and reproduce a bare existence.

The acceptance of this abstract doctrine has not been limited to theoretical writers and revolutionaries. Henry Clay points out that the Royal Commission which reported the reform of the English Poor Law in 1834 was committed to it and presented evidence of subsidies from the public treasury which had depressed wages.[1] It has long been widely used for the purpose of keeping labor in active enmity with capital.

The obstacle in the way of accepting the theory today is the actual course of wages and the birth-rate. Wages have risen, and simultaneously birth-rates in many western countries have fallen.

### THE MYTH OF THE GENERAL STRIKE

The myth which has almost epic significance is the myth of the general strike. Although it has been and still is widely believed in Italy, Sweden, England, the United States, and other countries, it is essentially of French origin and partakes of characteristics which appeal with great force to the French workingman. Its adherents have included intellectuals of undoubted brilliance, notably Sorel, and active revolutionaries in great number.

The general strike is the central instrument of the class war, it marks the Day of Judgment which shall see the overthrow of capitalism and the passing of the means of production over to the workers. In the words of Lagardelle:

> The idea of a sudden amplification of this daily act which we call the strike, naturally finds a place in the working class mind. For the worker here is something tangible, real, which not only does not transcend the familiar setting of his life, but which is his very life itself. There is no need of wide theoretic speculations to teach him the effect of a generalized and simultaneous suspension of labor. He has only by a natural operation of the mind, to multiply the

[1] Henry Clay, *Economics for the General Reader* (New York, 1918), p. 290.

consequences of particular incidents in the daily struggle to realize that in a single moment, by the sole power of concentrated efforts, the social war may attain its maximum intensity and the consummation be achieved.[1]

Sorel himself calls the general strike social myth, which he defines as a "mixture of fact and art for the purpose of giving an aspect of reality to the hopes on which present conduct rests." He likens the general strike to the catastrophic revolution of Marx and the Christian idea of battle against Satan.[2]

In this connection Mr. Estey reminds us that

> great triumphs have been won for Christianity under the stimulus of a supposed war against the forces of evil, but men do not on that account necessarily believe in a personal devil. . . . . And so with the Marxian catastrophe and the notion of a revolutionary general strike. They represent convenient abstractions, handy summaries, containing the essence of all socialistic practice; but they must never be conceived as events which in the course of time will actually take place. A general strike of laborers in one simultaneous movement is impossible, but . . . . it affords a most useful slogan in the class war.[3]

Regarded as a myth (Sorel points out) the general strike has a further advantage in that "when one takes one's stand on the ground of myths, one is proof against all refutation."

He claims that, attended with appropriate propaganda, the idea of the general strike calls forth the "most noble, the most profound, the most stimulating sentiments" and brings them to "their maximum intensity." "The idea of the general strike, constantly rejuvenated by the sentiments which proletarian violence provokes, produces an almost epic state of mind."[4]

### RÔLE PLAYED BY THE MYTH IN THE HISTORY OF ORGANIZED LABOR

The use of the general strike as part of an actual program has been discussed by socialist and labor groups for more than half a century. At the Geneva Congress of the International in 1866 it was contended that if a universal simultaneous cessation of work could be effected it would end in a "cataclysm in which society

[1] Quoted by J. A. Estey in *Revolutionary Syndicalism* (1913), pp. 91–92, from Lagardelle, *Syndicalism et socialism* (1908).

[2] G. Sorel, *Réflexions sur la violence* (1910), p. 27.

[3] Estey, *op. cit.* p. 91.

[4] G. Sorel, *Réflexions sur la violence* (1910), pp. 168, 364.

would be re-born." In 1872 the Belgian Internationalists invited their colleagues to adopt measures preparatory to a general strike, but the Congress declined because it was felt that more organization was necessary as a preliminary step. In England during the period of Robert Owen's activities, from 1828 to 1835, the idea of a general strike was widely discussed and to a slight extent experimented with, but it is from the French intellectuals and the French working-class leaders that the general strike has had the major attention.

Curiously enough, to Mirabeau is ascribed the first mention of the general strike when in his warning to the ruling class he said: "Take care! Do not irritate this people that produces everything, and that to make itself formidable, has only to become motionless." In the late sixties the French leaders adopted the idea with zeal, but the suppressive measures following the Commune in 1871 required a complete change of method. In 1888 the French Confederation of Trade Unions passed a resolution in favor of the general strike and defined it as "the complete stoppage of all work," and this was followed by actual agitation in favor of it. The French workers found the idea appealing. They preferred a "short, sharp combat to the long-continued efforts and continued subscriptions to trade unions."

The experiments ended in failures. This was the case in the Mining Strike in 1902, for which careful preparations had been made, of the General Strike for the eight-hour-day called by the C. G. T. in 1906, the Postal-Workers' Strike in 1909, and the Railway Workers' Strike in 1910. The last was put down by Aristide Briand, who had earlier claimed the title of the "Father of the general strike." In all these and others there is to be found accumulating evidence that "the insuperable, damning facts are that the poorer classes will be the first to suffer, and the employers who might be vanquished if they were handled in succession, are stimulated to combine in firm resistance by a simultaneous joint attack."[1]

It might be said that the long series of Belgian general strikes, which had for their objective the extension of the suffrage, met with a measure of success, and so are an exception to the record of failures, but the wholly different nature of their aim makes them scarcely

[1] L. L. Price, in his Introduction to J. A. Estey's *Revolutionary Syndicalism* (1913).

comparable. Two recent strikes of great importance add their testimony to the great difficulty of reaching the end by this method. The first of these, the Swedish General Strike of 1909, made clear the ability of the bourgeoisie to take care of itself to an extent that had not been supposed possible. The other instance is the great British General Strike of 1926. The question whether this last was, in fact, a general strike, since only the first line of workers was called out, is differently argued, but there is no difference of opinion possible regarding the actual collapse of the strike itself.

### MYTHS AND SOCIAL PROGRESS

We have seen that we, no less than the primitives, resort to myths for guidance and interpretation when baffled by our economic activities. As we inspect the results of our reliance upon myths for this purpose, we must conclude that they do not point the path of social progress. If our efforts are to promote social progress, we shall have to renounce myths and travel by the more painstaking way of studying our own experience and learning from it.

The domination of myth in our life today is scarcely suspected. We call the myths "laws" and so appear to have put them in a different category. The so-called law of supply and demand is supposed to rule our whole process of price-fixing, yet an attempt even to formulate it will disclose the fact that the statement embodies only the most general tendencies and no measure of actual relationship between variables. Volumes have been written about the marginal buyer, yet he is not ticketed; and it is impossible to catch him in the flesh, and not because he is hiding, for he too is completely unaware of his fundamental importance. No explanation of tomorrow's rent will be obtained from the most searching study of Ricardo.

Our dependence on the outworn creed of a time outworn is so like Stevenson's fable of the lad who sought to free his people from superstition. It started from the practice of wearing a gyve on the right ankle. It became necessary to do heroic deeds to uproot this painful custom, which kept the young from dancing and the people sick with running sores. To make it clear that it was a superstition and no command of Jupiter's, the young reformer had to

brave the House of Eld, to heave the sword of heavenly forgery and smite his uncle, his father, and his mother. Yet these things he did, in spite of the love he bore them, for he judged their appearances sorcery and he would set the people free. But when he returned home it was to find his uncle smitten on the head, his father pierced through the heart, his mother cloven through the midst; and all were dead indeed, so he went forth to see the folk who had been freed from the fetter, and it was a fact that they had no fetter on the right leg, but behold they had one upon the left for it was, they told him, the new wear, as the old had been found to be a superstition!

Similarly, we have many times surrendered one myth only to take another in its place. On the other hand, a great deal of useful information is being accumulated by the patient study of economic institutions which have, for the most part, come into existence since the hallowed doctrine of the textbooks was formulated. This study is the starting point for the major undertakings of the economists today. We believe that it constitutes a more hopeful approach to the problems of our economic life.

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## SEPARATE DOMICIL FOR MARRIED WOMEN

THERE is no branch of the law which has been more completely revolutionized by statutory amendment than the law of husband and wife and the law of father and child. Under the common law, marriage wiped out for all practical purposes the legal existence of the wife, whose personal goods by the fact of the marriage became her husband's, whose real property he was given the right of management, whose capacity to assume enforceable obligations was wholly interrupted, and over whose person he obtained very wide powers of domination. The right to determine where the family should live (domicil), what the standard of life should be (the doctrine of "necessaries"), what the standard of conduct should be (reasonable discipline), the right to the wife's marital companionship and personal services, so that if she worked outside the home, her earnings, like her income from property, were the husband's—all these features characterized the relationship of husband and wife under the common law. Rich women found a way out through the courts of equity which were not available to poor women. If one turns to the civil law, which in the words of older lawyers was not so "courteous" to husbands, for certain purposes the wife's existence was continued in what is known in some of our states as "community-property" states. There she had a right, if she survived, of recovering back half of the "community"; that is, something remained hers and she might call for an accounting at the end. But, during the marriage, the husband was and is the head of the "community," so that the difference between the two situations was not so great after all.

All of this has been or is being rapidly changed. Married women's property-rights laws in the various states have given the wife the right to retain the control of her property, to claim her earnings, to do legally effective acts. Co-guardianship laws have given her rights and laid on her duties with respect to her children. Family-expense and non-support acts place on her duties similar to those under which the husband was supposed to rest, only these are more effec-

tively sanctioned than were the responsibilities the common law claimed to impose on him. In fact, whereas she was a legally incapable person, in a position something like that of the infant or the mentally unsound, she is now treated in general as an independent, responsible person. The change in the law has been characterized as nothing less than revolutionary. Many statutes have been enacted and much litigation has resulted. The problem has not been and is not simple. Much of the legislation was inevitable and, so far as it had to do with property rights, relatively simple, since the woman with property could command legal services and is not therefore subjected to a test as to whether or not she can act independently and in an adult manner. There are, however, a few points on which the legislation has not generally spoken. One of those is the law of domicil to which reference has been made. To that subject the attention of the reader is asked in the following discussion.

It is perhaps necessary to repeat that under the English common law, which most of the commonwealths of the United States inherited and expressly adopted, marriage created a situation in which legal responsibility and authority in the family were bestowed on the husband and father and the wife became a legally incapable person.

In the great majority of situations, however, the law makes relatively little difference. Men generally provide for their families not because it is a legal duty but because it is a social obligation and the source of their greatest satisfaction. In the occasional "hard case," however, it becomes important. And the subtle effects on the husband of legal authority and on the wife of legal incapacity will never be adequately calculated. Attention need only be called to the fact that at almost every point the earlier law of husband and wife has during the last three quarters of a century been revolutionized.

Women can now own their own property, receive their own earnings, make binding contracts, sue and be sued, and share with the husband and father rights and responsibilities in the care and upbringing of the children of the marriage. These changes have been brought about by constitutional or statutory enactment. There are, however, questions not generally covered either by the married woman's property-rights laws or by other legislation to which the courts must from time to time give attention. One of these is the question of a separate domicil.

### HOW THE OLD RULE HAS BEEN MODIFIED

As has been said, under the common law, marriage gave the husband the right to determine domicil. That right has been modified by legislation in a number of states for two purposes. The first is to protect the family from arbitrary moving, resulting in lowered standards of comfort. In Illinois, for example, it is provided that if the family have established a homestead,

> neither the husband nor wife can remove the other or their children .... without the consent of the other, unless the owner of the property shall, in good faith, provide another homestead suitable to the condition in life of the family, and if he abandons her, she is entitled to the custody of their minor children, unless a court of competent jurisdiction upon application, for that purpose, shall otherwise direct.[1]

The second is to make it possible, when the two are living apart without there being present the element of discord, or when they maintain two establishments, as for example a town and a country house, and he wishes to share in the political life in one while she prefers to share in the other, for her to perform such civic duties as voting or holding office in a different jurisdiction from that in which he performs his civic duties. Legislation of this kind has been enacted in eight states: Massachusetts and Wisconsin in 1922,[2] Ohio and Pennsylvania in 1923,[3] Virginia in 1924,[4] New Jersey in 1927,[5] and Maine[6] and New York in 1929.[7] In Massachusetts and Ohio the right was given for the purpose of voting; in New York and Pennsylvania, for voting and holding office; in Virginia for registering and voting; in Maine for voting, office-holding, and serving on a jury; in New Jersey for "voting, office holding, testacy, intestacy, jury service, and taxation." The significance of the Wisconsin Equal Rights Act has not been determined, but it would undoubtedly be held to cover these rights.

[1] *Illinois Revised Statutes*, 1929, chap. 68, sec. 16.

[2] *Acts and Resolves of Massachusetts*, 1922, chap. 305, p. 315; *Wisconsin Session Laws*, 1921, chap. 529, p. 869.

[3] *Laws of Ohio*, 1923, p. 118; *Laws of Pennsylvania*, 1923, p. 1034, No. 417.

[4] *Virginia Annotated Code*, 1924, sec. 82*a*.

[5] *Laws of New Jersey*, 1927, chap. 168, p. 325.

[6] *Maine Acts*, 1929, chap. 288, p. 268.

[7] *Laws of New York*, 1929, chap. 455, p. 494.

But in addition to the legislation giving the right for such purposes as those named, when domestic discord is absent, the courts have been forced to recognize a similar right in the wife when there was discord, so that the marriage had ceased to be a true marriage and marital companionship seemed no longer possible. California, in fact, has by statute recognized the necessity of granting the wife the right to establish her separate domicil for purposes of obtaining a divorce,[1] and in the absence of the statute the courts have frequently recognized this claim on the part of the wife. It will be necessary to discuss this aspect of the subject somewhat more at length; but it should here be pointed out that what has not been recognized is her right to establish separate domicil for other purpose, for any purpose in fact that seems reasonable and suitable to her and to her husband, when there is no question of discord, but when for various reasons it may seem well for the two to live for considerable periods of time in different localities.

### THE QUESTION OF TODAY

This right has not been recognized. The question is whether or not it should be recognized. It is a difficult question; and, before even a beginning can be made at the formulation of a reply, it is necessary to set out the true nature of the right that has been and is exercised by the husband and to attempt to understand the significance of the claim that will be urged if the reply to the question is in the affirmative.

### BASIS OF THE OLD RULE

Again to turn to the law, as has been pointed out, it must be recalled, at the risk of repeating, that the right of the husband to determine domicil of the wife and children was incident to his general dominion over the person of the wife and children, was the basis of his enjoyment of her companionship and services, and analogous to his right to fix the standard of life. The "husband and wife" in the words of Blackstone[2] "are one," "the very being or legal existence of the woman is suspended during the marriage." It was almost true that where he was she was supposed to be, and that his true and fixed

[1] *The Civil Code of California* (1923), sec. 129.

[2] *Commentaries*, Book I, chap. xv, p. 442.

home,[1] the place where the law could act on his legal status, the place to which he would during physical absence expect to return, was the place where she was likewise expected to be "acted upon" by the law, be expected to expect to return. Statements of the principle by the various authorities attempt to set this out. "Following the theory of the identity of the person the law fixes the domicil of the wife by that of the husband and denies to her during cohabitation the power of acquiring a domicil of her own, "separate and apart from him."[2] Or, ". . . . Following the rule established at common law a woman on her marriage loses her own domicil and acquires that of her husband. . . . . In general this rule governs, no matter where the wife actually resides. . . . ."[3]

DOMICIL, SETTLEMENT AND RESIDENCE

But the question may be asked, How does the husband acquire the domicil he bestows on the wife? This he acquires first by birth and second by choice. For there are in general three sources of domicil:[4] (1) There is the domicil of origin which is the domicil assigned a child at birth. If he is legitimate and the father is alive, it is the domicil of the father; if the child is illegitimate or the father is dead, it is the domicil of the mother. (2) There is the domicil of choice, which is acquired by a legally capable person, who gives up his home and establishes a dwelling place with the intention of making it his home. If the possession of the dwelling and the intent to make it a permanent home concur, a domicil of choice is acquired. And (3) there is a domicil by operation of law, which applies to the domicil of the wife or of the minor child, who in general have the same domicil with the husband and father.

The reciprocal rights of husband and wife in the matter of control over the person are described in the following words:

As against the wife the husband has a right to her society. This right was once fully protected by law in that he had control over her physically, and could

[1] Albert Levitt, "The Domicile of a Married Woman," *Central Law Journal*, XCI (1920), 4.

[2] *Corpus Juris*, XIX, 414.

[3] *Ruling Case Law*, IX, 537.

[4] See Cleveland, *American Citizenship* (1927), pp. 47–48; Gavit, *Americans by Choice* (1918).

institute a suit for the restitution of conjugal rights. But it is now seen that such a right cannot be enforced and the interest is, therefore, not secured. . . . .

The Interests of the Wife.—Like the husband the wife has interests in the marital relation which all the world can be made to respect. These are her interests in the society, affection and chastity of her husband. She also has an economic interest in being supported. Security in the interest in the chastity of her husband is denied or only incidentally given, but the other interests are given such protection as the needs of the State will permit and as practical methods in the administration of justice will allow . . . . .

Yet, so long as the family does exist, it is recognized as a legal institution and for purposes of control there must be some one person who can be looked to as the head of the family. This head of the family is responsible to the law for the proper conduct of the members of the family. Here a difficulty arises. People are migratory. There is a restlessness about human beings that cannot be ignored. They move about and will not "stay put." Hence, if the law wants to find a person it may have to chase him all over the world, unless the law arbitrarily determines that a certain place should be the legal home of the person. That is, the law as the agency of the State, must be able to say to each person: "This is where you are because this is where you should be." That is the real meaning of giving each person a domicil. The domicil is the legal home. It is the place where the law can act upon the status of the individual no matter where the individual may be *in corpore*. The social interest in the control of the individual makes it imperative that there should be some place at least where the law could reach that individual . . . . .[1]

Before discussing the subject at greater length, it is perhaps well to call attention to two other legal categories closely related to that of domicil, namely, that of *settlement* and that of *residence*. The reason for doing this is that the terms are sometimes confused, and often the fact that the individual has established settlement or residence will be important evidence in relation to domicil.

*Settlement* does not present so difficult a problem as domicil. It is a factor in the treatment of destitute persons and is of interest in those cases of extreme poverty in which immediate relief seems necessary, and relief by the public authorities rather than by private agencies appropriate. Whether or not a particular individual has or has not *settlement* in the jurisdiction in which he asks assistance is a question of the pauper law in its application as between two jurisdictions rather than as between husband and wife. As in the case of domicil, the husband's settlement is the wife's and the father's settlement the child's.

[1] Albert Levitt, *op. cit.*, pp. 5, 6, 9.

*Residence*, which the law books discuss very slightly, strictly speaking, refers to personal presence in a fixed and permanent, as against a temporary, home. The word is often used as synonymous with "domicil." It is, however, generally more temporary than *domicil*, and often has a more limited, precise, and local application than domicil. A person may have his residence in one place, his domicil in another. The latter term is used more in reference to rights, duties, and obligations. There are questions of civil status, of acting capacity, of title to property which are determined by the law of domicil. However, the word "residence" is often given the meaning of domicil.

### PRESENT DAY APPLICATION

The most important characteristics of domicil are generally, first, that there is present an intent immediately to make a home; second, ordinarily it is not done under legal or physical compulsion; and third, once established, the domicil continues until a new one is acquired. These were all features of the domicil of independent persons. For the wife, the domicil is, as has been said, a "compelled domicil," that is, one assigned regardless of her choice. The husband's domicil is the wife's. If he changes his domicil, hers changes, although she may never go to the new home. She may never be physically in the place where her domicil is. In one case, for example,[1] after the marriage, the husband left his new wife in Missouri where she had lived and went to New York where his domicil was, and she died before rejoining him. In an action between the person who qualified as her administrator and the husband, the court held that at the moment of her marriage she acquired the husband's domicil and the property which he had acquired from her was to be distributed after the law of her domicil, namely, New York, rather than after the law of Missouri, where she had always lived. In another case, when the husband died in Louisiana, where the wife had never been, she was held to have been domiciled there and to be entitled to homestead, which required domicil.[2] And in Illinois the provision of the divorce law requiring residence has been waived by the courts in favor of a woman living in another jurisdiction, whose

[1] *McPherson's Administrator* v. *McPherson*, 70 Missouri App. 330 (1897).

[2] *The Succession of Daniel Christie*, 20 Louisiana Annual Reports 383 (1868).

husband had deserted her and moved to Illinois establishing a domicil.[1]

In fact, the physical presence of the wife was legally irrelevant. In one case, for example, the domicil of Mrs. MacKinnon,[2] who never left England but was deserted by Mr. MacKinnon and humiliated by his contracting in Australia a bigamous marriage, was held to have been in Australia, whither he had gone. In that case Mr. and Mrs. MacKinnon had been married in June, 1878, in Scotland; and while he was chief quartermaster in the British Navy, their family home was in Aberdeen, where four children were born of the marriage. In 1893, because of his drunken habits, it was arranged that he should go to Australia; and her brother paid his way out. He landed in Sydney, remained for a time in New South Wales, and before July, 1902, he went to Queensland, where he resided until his death on January 7, 1918. On July 2, 1902, he went through the form of a marriage, bigamous of course, with a woman with whom he lived until his death. There were two children born to this union. His chief support was from his pension, and there was no communication with his wife during these years. In 1915, Mrs. MacKinnon in Aberdeen brought an action for divorce on the ground of desertion and adultery, but she died on September 9, 1915, before the decision had been reached. In connection with the settlement of her estate the question was raised as to whether or not Mr. MacKinnon had acquired a domicil in Queensland, and, if he had, whether or not Mrs. MacKinnon had a derivative domicil there too.[3] The court of last resort, in this case the House of Lords, decided that Mr. MacKinnon had acquired domicil in Queensland and that, since there had been no valid decree of divorce,[4] his domicil was hers. Such was

[1] *Thoms* v. *Thoms*, 222 Ill. App. 618 (1921).

[2] *The Lord Advocate* v. *Jaffrey and Others*, L.R. (1921) 1 Appeal Cases (House of Lords) 146. It should be said that this decision though recent and from such high authority has been severely criticized as being reactionary and contrary to the present trend in judicial opinion.

[3] It was a question of the payment of death duties under the Scotch law, and it was her representatives who insisted that her domicil followed his. In that case, her estate escaped death duties.

[4] *Dolphin* v. *Robins*, 7 H.L.C. 390 (1859). *Warrender* v. *Warrender*, 2 Clark and Finnelly, 488 (1835), is another leading case.

the general view of the law, and the husband's right to determine domicil was a commonly accepted right.

In another case, one arising in Alberta, Canada, Mr. and Mrs. Cook were married in Ontario, where they lived a few years. They then went to the United States, where he deserted her. She returned to Canada but went to Alberta, where, after several years, during which he again wandered about in many places, she sued for divorce. This was denied by the lower court on the ground that his domicil had been in Ontario and his wanderings had given no evidence of his intent to change. It was hers therefore, and she could not sue in Alberta. The upper court took the opposite view, however, and granted the divorce, but on appeal to the Privy Council the judgment of the lower court was sustained and she was left to the mercy of the Ontario legislature, since they had passed no law validating judicial divorce.[1]

This right of the husband is, of course, however, not one to be expressed in an absolutely arbitrary way regardless of the interests of the wife. There are to be considered questions of her health, of her relations to his relatives, of the conditions of life and comfort he provides in the new abode.

> A man cannot, for example, change the matrimonial domicile by abandoning his wife and going to another state to reside. Though the husband has the legal right to determine the place of abode of the family, and the wife must submit to his decision, the power must be exercised in a reasonable and just manner. It cannot be exercised arbitrarily.

In a case, for example, in which the husband tried to force the wife to live with an aunt who was very unkind,[2] it was held that she had the right to leave and to establish another domicil.

When a divorce has been granted, it goes without saying that the divorce decree authorizes a separate domicil and authorities need not be quoted in support of that statement. And the American courts have been more liberal than the English in admitting possible exceptions to the general rule in the absence of a final decree in divorce.[3] For example, where there has been a final separation so that the hus-

[1] *Attorney General for Alberta* v. *Cook*, L.R. (1926) Appeal Cases 444.

[2] *Hall* v. *Hall*, 69 West Va. 175 (1911).

[3] See 84 American State Reports 27, Note, for discussion of these exceptions.

band and wife have their permanent residence in different states, the domicil of the wife has been recognized as separate from the husband's—at any rate, for purposes of bringing an action.[1] Or, if the husband is guilty of such conduct as entitles the wife to have the marital relation partly or totally dissolved, she may establish a separate domicil of her own[2] although she does not bring the suit for divorce. If, for example, he beats her cruelly so as to endanger her health or make her life burdensome, she may leave his domicil and acquire another in another state.[3]

Sometimes, too, the court uses very broad terms describing the wife's right to a separate residence or domicil. In a case of probating the will of a married woman who had left her husband in Philadelphia and established a residence for herself and her children in New York, the New York court said in 1899:

> The whole claim of the plaintiff is based upon the old rule that a woman by marriage acquires the domicile of her husband and changes it with him. It is admitted that a wife may procure a separate domicile for purposes of divorce, but it seems to be claimed that such domicile cannot be procured for any other purpose. The old rule in reference to a married woman's domicile cannot, certainly, prevail in view of the rights which are recognized to be hers by the statutes.
>
> The property relations between husband and wife have been entirely changed since the rule in question has obtained, and the reasons for the rule no longer exist. The wife is now a distinct legal entity, having in the disposition of her property all the rights, and even more than a husband has ever possessed, and the husband has no control whatever over her movements or her disposition of her property. In the case at bar it appears that in 1875 the petitioner and his wife agreed to separate, she to take their children and maintain them. They did separate, he going to Philadelphia and she living in New York, which had been her home before marriage, and supporting their children from her own means. There is no pretense that the petitioner ever contributed a cent to the support of his wife or their children since 1875, or offered to do so, and the best that he can say in his petition is that he never refused to provide a home for his said wife or her children in the city of Philadelphia. Probably he was never asked to do so and, consequently did not refuse, but he nowhere alleges that he offered to provide a home for his wife and children anywhere, and probably did not.

[1] *Jenness* v. *Jenness*, 24 Ind. 355 (1865).

[2] *Ditson* v. *Ditson*, 4 R.I. 87 (1856); *Dutcher* v. *Dutcher*, 39 Wis. 659 (1856).

[3] *Arrington* v. *Arrington*, 102 N.C. 491 (1889). But Alabama took the other view, *Harrison* v. *Harrison*, 20 Ala. 629 (1852).

They had agreed to live separate, and she had agreed to support herself and her children. She then, by and with his consent, acquired a domicile in New York, made that her home and that of her children, and certainly if she was enough of a resident to institute divorce proceedings, as is conceded, she is enough of a resident to leave her property to her children and to be protected from the claims of a husband with whom she has not lived for twelve years, and who has not, during that time either contributed or offered to contribute to her support or to that of their children and who desires now under legal fiction, to take away from his own children a portion of their mother's inheritance.[1]

And in 1892, in the case of a wife[2] whose husband in Massachusetts mistreated her so that she left him and resided in New Hampshire until her death, when he attempted to prevent the probate of her will and to secure his distributive share under the statute, the court said:

The Common Law theory of marriage has largely ceased to obtain everywhere, and especially in this state where the law has long recognized the wife as having a separate existence, separate rights and separate interests. In respect to the duties and obligations which arise from the contract . . . . husband and wife are still and must continue to be a legal unit. . . . . And since the law puts her on an equality so that now he has no more power and authority over her than she has over him, no reason would seem to remain why she may not acquire a separate domicile for every purpose known to the law. . . . .

These are broad words, but in fact the husband had abandoned the wife, and they do not therefore apply to those situations in which there are no adverse interests. In a Rhode Island case,[3] where a Mr. Howland was living in Rhode Island but Mrs. Howland, because of her health, had gone to Asheville expecting to make it her permanent home, and the question of taxing her personal property in Rhode Island was raised, the court expressly rejected the statement of the New Hampshire court and held, after a careful examination of the authorities, that the wife cannot acquire a separate domicil so long as *the unity of the marriage relation* continues, notwithstanding that, from considerations of health, one of the parties may actually be living with the consent of the other in a different place.

[1] *In the matter of the Probate of the Will of Rosalie Florance*, 54 Hun (N.Y.) 328 (1889).

[2] This was a very interesting case of the distribution of the wife's property after her death and in accordance with her desires. *Shute Adm.* v. *Sargent*, 67 N.H. 305 (1892).

[3] *Howland* v. *Granger*, 22 R.I. 1 (1900).

In an Illinois case, a woman moved into her father's home after her mother's death and cared for her father until his death, two months from that time. Her husband stored their furniture and went to Iowa. In the settlement of the estate, since she had taken the part of a daughter in the household, she attempted to claim the share of a daughter[1] who makes her home with her parent. The court held, however, that in view of the fact that her separation from her husband was not and was never intended to be permanent (she had received money from him; and after her father's death, he returned and lived at the parental home with her), "His, the husband's domicil, was her domicil and residence in contemplation of law," and hence she could not claim the extra share from her father's estate, in Illinois, since her domicil was with her husband in Iowa.

Besides domestic discord, the husband's incapacity may, in this as in other aspects of family management, be the occasion of the wife's independence. For example, if he becomes insane, she may acquire independent acting capacity and so be able to change her domicil. A separate domicil may therefore be said to be possible in the following situations: when the wife is getting or has got a divorce;[2] when the husband has deserted the wife[3] or given her other ground for obtaining a divorce; when the wife wishes to sue a stranger for alienating his affections;[4] if he becomes insane.[5]

That is, under the doctrine expressed by the courts in many American states, if the relationship has become unendurable, the wife may establish a separate domicil. One way of phrasing the principle, a statement[6] said "to go to the limit of the law," is to the effect that "if a wife lives apart from her husband without being

[1] *Evans* v. *Evans*, 164 Ill. App. 614 (1911). Under the Statute of Administration (Smith-Hurd), Ill. Revised Statutes, 1927, chap. 3, sec. 73.

Another case involving a right in property is *Phillips* v. *Springfield*, 39 Ill. 83 (1866). The court held that she had no homestead right while he lived, for though "she of her own will abandoned him .... it was her duty as a loyal wife to reside with her husband; his domicil is, in law, hers."

[2] *Williamson* v. *Osenton*, 232 U.S., 619 (1914) (Holmes, J.).

[3] *Buchholz* v. *Buchholz*, 63 Wash. 213 (1911).

[4] *Williamson* v. *Osenton*, 232 U.S. 619 (1914).

[5] *McKnight* v. *Dudley*, 148 Fed. 204 (1906).

[6] *The Advisors to the American Law Institute on Conflict of Laws*, Vol. I, sec. 30, pp. 29, 30.

guilty of desertion she may acquire separate domicil." But she can live apart from her husband without "being guilty of desertion" substantially only when he mistreats her, or has abandoned her, or is unfaithful to her. Another statement under discussion takes the form: "The wife living apart from her husband by his consent or owing to his conduct may establish separate domicil for the purpose of suing for divorce."

The federal courts have been responsible for very wide statements concerning the wife's right to establish separate domicil, but when those statements are examined it will appear that fault of the kind anticipated was present, so that many such statements were beside the point. In a case that is often referred to as admitting the right,[1] the court said: "A wife may acquire a domicil different from her husband whenever it is necessary and proper for her to do so." But the conditions under which the court thinks it *is* "necessary and proper" are indicated when the decision continues "and on such domicil may institute proceedings for divorce." In another case, the court said:[2] "We should hesitate long before deciding that the only exception to the rule that the domicil of the wife follows that of the husband is in a judicial proceeding to show that the relation itself should be dissolved." But again the temper of the court is shown by the illustration selected: "She may not desire the publicity of a divorce."

### THE TREND OF OPINION

However, there is also said to be "an undoubted trend of social opinion in favor of the full legal emancipation of women,"[3] so that it is quite possible that the law may in the future be further modified by the courts. And as far back as 1920, Professor Albert Levitt of Cambridge, Massachusetts, in commenting on certain statements made by Professor Beale, of the Harvard Law School, said:

[1] *Cheever* v. *Wilson*, 76 U.S. 108 (1869).

[2] *Watertown* v. *Greaves*, 112 Fed. 183 (1902). See also *Williamson* v. *Osenton*, 232 U.S. 619 (1914) and *Haddock* v. *Haddock*, 201 U.S. 562 (1906); *Atherton* v. *Atherton*, 181 U.S. 155 (1901). In two cases, *Anderson* v. *Watt*, 138 U.S. 694 (1890), and *Cheeley* v. *Clayton* 110 U.S. 701 (1884), the right to separate domicil was denied, because it appeared that the fault was hers. See also *Barber* v. *Barber* for enunciation of common law principle, 62 U.S. (21 Howard) 582 (1858).

[3] These are the words of the "Advisors," *loc. cit.*, p. 30.

The conclusion to which we arrive after a consideration of all the authorities we have been able to find is this: If the interests of the state and of the wife indicate that the married woman should be given a domicil of her own, the law (that is, the courts) will grant her a separate domicil for all purposes.[1]

The question is when and how will the question be raised. Unless there is a fairly clearly and widely held view on the subject which might lead to legislative action, the questions are raised before the courts by litigation that is accidental, so that no one knows when such an extension to the married woman's rights may occur.

There is at the present time an interest on the part of lawyers in the subject, because it is related to complicated questions giving rise to conflicts between the laws of different states and of different countries. But the question is difficult and one on which, fortunately, relatively few women have occasion to think.

## PRACTICAL ISSUES

The questions that have been especially raised in connection with the subject of domicil are (1) the question of taxation, as in the case of Ganna Walska and her plea that she had a domicil in Paris separate from that of her husband permanently domiciled in Chicago and therefore was a non-resident under the revenue law;[2] (2) the question of the right of the foreign-born woman to immigrate leaving her husband in Europe, and to qualify under the naturalization law, so that she may become a citizen, as he is able to do; (3) the question of the distribution of her property in case she dies first; (4) the question of employment in positions requiring residence or domicil when her work is not in the place where her husband has his domicil. An illustration of this last would be found in the case, for example, of a man whose interest is chemistry and who finds his best opportunity on the staff of a western university, while his wife is a brilliant biologist finding her opportunity on the staff of a great hospital in an eastern city; or in the case of a man who is a traveling representative of a firm publishing textbooks, whom strategic reasons of marketing compel to have his headquarters in Indianapolis, while her knowledge of social work and of various foreign languages finds her opportunity in Chicago.

[1] *Central Law Journal*, XCI, 4–14, 24–29.

[2] U.S. Customs Court, T. D. 43804.

Briefly, in connection with the wife's employment, it may be argued that when under the so-called "married women's acts," such as the Illinois Act of 1869, the right has been given the wife to own her earnings, her right to dispose of her labor power, as she saw fit, was really implied. She was to be able to choose between using her labor as a part performance of her marital obligation in the service of her husband and of her home, receiving in return her support,[1] or to work for wages outside the home, taking the wages as her own property. But if she is to be free to use her earnings, she should likewise be free to decide how and where she will earn them. And if she is so concerned in this way with occupational problems, it is little short of absurd that she should not be able to seek employment where it can best be found and then share in the benefits or the disadvantages of the place where she works regardless of whether or not it is in the same place in which the husband has his domicil. One of the advantages which men generally have over women in seeking employment is their greater mobility. This advantage is even greater in the case where one of the competitors for certain forms of employment is a married woman.

Naturally at the present time, if a wife finds employment, it is in the same place in which the husband is employed, and the employer knows that she is tied to the place in which they both live. Tempting offers therefore do not come from other communities; she can benefit from such offers neither by accepting them nor by using them to inform her employer of the value placed on her work by others in the field equally able to judge. She is therefore at a very real disadvantage as compared with men and with unmarried women in disposing of her labor power.

In the matter of the immigrant woman, it may very well be that the demand for labor in this country and the attitude that prevails in many countries with reference to the emigration of adult able-bodied men being what it is, it is much simpler for the wife to come before the husband; and there is no inherent reason why she should not be able to establish her domicil as well as obtain residence.

The point, in truth, however, is that the position of the wife, while it is now very different from what it was at an earlier time, has not yet been completely transformed. Under the common law, the

[1] Under the doctrine of his duty to furnish "necessaries."

wife was under coverture, as under the early Roman law she was *in manu*. The present demand of organized women is that the married woman should be treated as an adult person capable of self-determination and of self-discipline. The question to be considered, then, is whether the time has not come for a step to be taken in the direction of "full legal emancipation by legislative enactment." The subject is, however, not simple. The implications of physical separation of two persons who retain the rights and obligations of monogamous marriage are complicated and difficult to analyze and evaluate. If, however, there is such a "trend," as has been mentioned, women should both direct its movement and so far as possible determine the rate of progress. If, then, there is to be legislation, the question arises as to the form such amending legislation might take. The following forms, drafted by a highly skilled legislative draftsman, who is very learned in this branch of the law, have been suggested.

I. A married woman may retain or establish domicil of her own, but she shall be presumed to share the domicil of her husband. A minor child shall be presumed to share the domicil of the parent with whom the child is living, and, if living with both parents, shall be presumed to share the domicil of the father.

The second suggestion by the same person was as follows:

II. Without prejudice to existing obligations of marital society or to the right to determine the matrimonial domicil, a married woman may retain or establish a domicil of her own, but shall be presumed to share the domicil of her husband.

A minor child shall be presumed to share the domicil of the parent with whom the child is living, and, if living with both parents, shall be presumed to share the domicil of the father.

The question is, Shall the "trend" referred to be hastened or the implications of the decisions of some of the courts of the various states be clarified by legislation after the order of these proposals?

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# THE ENGLISH ADOPTION LAW

ENGLAND was the last important country in the world to make provision for the legal adoption of children. The Adoption of Children Act[1] was passed by the British Parliament on August 4, 1926, and became effective on January 1, 1927. That there was no statute providing for a legally binding form of adoption does not mean that adoption was unknown in England before 1927. It only means that such adoptions as there were, were only *de facto* arrangements, giving the adopting parent no valid legal position with reference to the child adopted.[2] The number of these *de facto* adoptions cannot be accurately ascertained, since they had no standing and were therefore not reported or enumerated. However, a single so-called "adoption society," The National Children Adoption Association, arranged 2,057 adoptions between 1917 and 1926.[3] Mr. W. Clarke Hall, England's best-known children's court justice, has characterized the situation quite aptly. He says:

> The motive that brought about this new legislation was . . . . the simple idea of conferring the privileges of parents upon the childless and the protection of parents upon the parentless, or upon those whose parents had not the means or ability to maintain them. While enormous sums of money have been and are being spent in this country upon the provision of orphanages and children's homes, comparatively few people have chosen to take upon themselves the responsibility of maintaining in their own homes orphan and destitute children. The principal reason for this is obvious. Until the passing of the present Act, kind hearted people might accept a child of the tenderest years, bring it up exactly as their own, spend considerable sums upon its education, and lavish their best affection upon it, and yet at any moment, or at any age up to sixteen, the natural parents retained the legal right to come and remove the child and prevent those who had hitherto maintained him from ever seeing him again. Even when the natural parents had no real desire to recover the child they could demand money from the actual guardians, who might well be willing to pay rather than part with a child whom they had grown to love.

[1] Public General Acts and Measures, 16 & 17 George V, chap. XXIX.

[2] In the case of *Humphreys* v. *Polak*, 2 K.B. 1901: 385, the court ruled: "A contract between the mother of an illegitimate child and another person for the transfer to that person of the rights and liabilities of the mother in respect of the child is invalid."

[3] Gervais Rentoul, "The State and the Adoption of Children," *Contemporary Review*, January, 1927, p. 59.

It is not to be wondered at that people, however anxious to take charge of a child, should hesitate to incur such risks from which the most carefully drawn legal document could not protect them. . . . .

The passing of the Adoption Act, therefore, is an occasion that has been earnestly looked forward to and is now whole-heartedly welcomed by all concerned in the welfare of children.[1]

Mr. Rentoul states the case in favor of the law in even stronger terms.

Not merely as a matter of elementary justice has such an alteration in the law been long overdue, but the number of hard cases, of anomalies, and even of blackmail, directly due to the absence of such legal protection, should make everyone rejoice that so unsatisfactory a state of affairs has now been, at any rate partially, remedied.

Until the recent Bill became law, adoption, in the sense of a transfer of parental rights and duties in respect of a child, to another person, and their assumption by him, was not recognized by English law. The natural parent could at any time resume all rights over the child in spite of any agreement to the contrary, and the adopter was left without a remedy in law.[2]

In view of the considerable number of adoptions actually occurring, and in view of the opinion expressed by Mr. Justice Hall that this measure was "whole-heartedly welcomed" by all concerned in the welfare of children, and the further fact that when the bill finally came to a vote in the House of Commons it passed without a division, the question of why legislation on this point was so long delayed very naturally intrudes itself. A categorical answer does not at once appear. However, an examination of the events leading up to the passage of the measure, together with some of the opinions expressed by committee members and by members of the House of Commons from the floor, shed some light upon the question.

The period during which the adoption of children was receiving official consideration in England was just one day over six years. The first departmental committee on child adoption was appointed by the home secretary, the Rt. Honorable Edward Shortt, on August 3, 1920, and the law was finally enacted on August 4, 1926. No legislation having resulted from the work of the first committee, Mr. Arthur Henderson, secretary of state for home affairs

[1] W. Clarke Hall and Justin Clarke Hall, *The Law of Adoption* (London: Butterworth & Co., 1928), pp. 5–6.

[2] Gervais Rentoul, *op. cit.*, p. 59.

under the first Labour government, appointed a second committee on April 4, 1924. The first committee was headed by Sir Alfred Hopkinson, and the second by Mr. Justice Tomlin. Both committees found that there had been an increase in adoptions in England in the years following the war. The Hopkinson Committee said on this point:

> Although differences on many points of detail are manifest, there is concurrence amongst the witnesses who have experience in social work that the number of persons desiring to bring up some child or children, who would be treated in law and generally regarded as occupying the position of natural and lawful children, has very much increased. No doubt this is due to various causes, of which the loss that many families have sustained in the war is one. There is also reason for thinking that the interest in child life and child welfare is growing both in this and in many other countries.[1]

The Tomlin Committee, somewhat more conservative in the temper of its report, merely says: "The war led to an increase in the number of *de facto* adoptions but that increase has not been wholly maintained."[2] The logical inference from these statements would seem to be that before the war there were so few people wishing to adopt children that no law on the point was really necessary.

A somewhat curious objection to the enactment of an adoption law emerged during the discussion shortly preceding the passage of the bill. It might almost be phrased: "We have put this off so long that if we act now, we will be accused of copying other countries, and our dignity will suffer." On April 3, 1925, on the occasion of the second reading of a private member's bill[3] making provision for the adoption of children Mr. Davies said:

> A point has been made today with regard to what has transpired in other countries. I am not a lawyer, and I know very little of what is happening in legal circles in continental and other countries, but I can say that I very much prefer the laws of this land to be established on the experience and necessity of our own people rather than that we should be asked to copy any other country. . . . . I prefer that whatever we do should be done because of the necessity of

[1] *Report of the Committee on Child Adoption* (1921; Cmd. 1254), p. 4.

[2] Child Adoption Committee, *First Report* (1925; Cmd. 2401), pp. 3–4.

[3] This bill was presented by Sir Geoffrey Butler, but was withdrawn because the under-secretary of state, Mr. Locker-Lampson, protested against the passage of a bill while the Tomlin Committee was still considering the matter.

the case in our own country, and not because of any desire to copy America—even the State of Massachusetts or the County of Virginia.[1]

To the last statement, Viscountess Astor objected: "I really must protest. Virginia is a State, and was England's first colony."

A similar sentiment was even more blatantly voiced by a member of the Tomlin Committee, Mr. W. R. Barker of the Board of Education, writing during the period when the bill was in progress through the House.[2] Mr. Barker said:

> The legislators of the West are not hidebound by the traditions of more effete countries, and have felt able to pass laws on divorce, liquor, family law, and adoption which offend the sense of decorum possessed by more established civilizations. There are, however, persons in this country who are convinced that what Iowa, U.S.A. thinks today, England should think tomorrow; and Mr. Pethick-Lawrence finds England in this respect "a long way behind many of the civilized countries of the world. . . . ."
>
> To the private individual the machinery of adoption is likely to prove tiresome and expensive, and in most cases the inconveniences attaching to it will outweigh any advantages to be derived therefrom. The Bill, however, does provide a rather difficult way out for those persons of perhaps excessive timidity who are in perpetual terror that they may be bereft of the children whom they have adopted, and perhaps that was all that was needed. It will also, if passed, prevent Iowa, U.S.A., from jeering at us on account of the backward state of our civilization.

Whatever the real reasons, it seems quite obvious that before 1920 no really vigorous demand had been made for such legislation. It is further quite evident that much of the delay between 1920 and 1926 was due to the failure of the government to present or to support a bill on the subject. Following the Hopkinson Committee's report, six private member's bills were presented, some of which proceeded to a second reading. On the occasion of the second reading of the last of these (Sir Geoffrey Butler's bill mentioned above) no small amount of caustic comment was leveled at the home secretary for not having taken active steps to push an adoption law through the House. There is no doubt but that the active support from every quarter of the House on that occasion did much to bring the matter to a conclusion.

[1] Hansard's *Parliamentary Debates*, CLXXXII, 1748.

[2] W. R. Barker, "Adoption of Children," *Nineteenth Century*, May, 1926, pp. 676–86.

On April 6, 1925, the Tomlin Committee presented its first report, and on July 6, 1925, its second report containing the draft of a bill. On the twenty-sixth of February, 1926, the bill came to a second reading in the House of Commons.

The discussion of the measure in the House could scarcely be called a debate. One member, Miss Wilkinson, referred to it as a "chorus of praise." The one point upon which there was real and substantial disagreement was that of property rights and succession. A number of members, particularly Mr. Hurst, Mr. Pethick-Lawrence, and Lieutenant-Colonel Hedlam, urged that the adopted child be placed in every respect on the same footing as a natural child of the adopting parent. The Tomlin Committee had expressed a more conservative view on the matter, and it was their view which was accepted by the majority of the House. They said in part:

> No system of adoption, seeking to reproduce as it does, artificially, a natural relation, can hope to produce precisely the same result or to be otherwise than in many respects illogical, and this is made apparent in the diversity of provisions in relation to succession and marriage which appear in the adoption laws of other countries.
>
> We think that in introducing into English law a new system it would be well to proceed with a measure of caution and at any rate in the first instance not to interfere with the law of succession. The child, in English law, has no absolute right to succeed to any part of the parents' property. The parent can by act *inter vivos* or testamentary disposition make over all he possesses to strangers and the child's interest is limited to a share in that, if anything, which devolves upon an intestacy. It is unnecessary to advert to the distinctions which have hitherto prevailed between realty and personality in regard to succession, but it does not require any profound knowledge of the law of succession to bring home to an enquirer (1) the impracticability of putting an adopted child in precisely the same position as a natural child in regard to succession, and (2) the grave difficulties which would arise if any alteration were to be made in the law of succession for the purpose of giving the adopted child more limited rights. We propose, therefore, that the child who is the subject of an adoption should not have his position altered in any respect in relation to succession either as regards his natural family or as regards his adopted family but that the tribunal which sanctions the adoption should have power, if it think fit, to require that some provision be made by the adopting parent for the child. There are many forms which such a provision might take, including, e.g., a covenant secured by a bond to the tribunal whereby the adopting parent covenants to make testamentary provision for the child up to a given amount or to the extent of a particular proportion of his estate.[1]

[1] Child Adoption Committee, *First Report* (1925; Cmd. 2401), p. 7.

As enacted, the statute is not remarkable except, perhaps, in the position given the adopted child with reference to the matters discussed in the previous paragraph. Jurisdiction was given to the high court, with the proviso that any county court or court of summary jurisdiction in the jurisdiction in which either the child or the applicant lives may also act. The court of summary jurisdiction that was intended here was the juvenile court, and, in practice, this court has dealt with by far the majority of cases.

The early sections of the act define who may and who may not make application for an adoption order, and stipulate certain conditions requisite to the making of an order. Section 2, with its various subsections, provides that no adoption order shall be made in any case in which the applicant is under twenty-five years of age or less than twenty-one years older than the child in respect of whom the application is made. An exception to this last condition may be made in cases in which the child and the adopter are within the "prohibited degrees of consanguinity," in the discretion of the court. Further, no adoption of a female by a male alone may be ordered unless very unusual circumstances make it seem desirable. Before an adoption order can be made, all parents, guardians, "and others in any way responsible for the support of the infant" must consent, unless they are in some way incapable of giving a valid consent, or cannot be located. One spouse may not apply for an adoption order without the consent of the other, unless the latter be incapable of consent, cannot be found, or the couple be permanently separated. The adopter must be domiciled and resident in England or Wales, and the child must be a British subject.

Section 3 provides that the court in making the order must be satisfied that every person whose consent is required has consented and understands the effect of the adoption, that the order will be for the best interests of the child, and that the applicant has not received nor agreed to receive, and that no person has given or agreed to make or give to the applicant, any payment or reward in consideration of the adoption except such as the court may sanction. Section 4 gives the court authority to "impose such terms and conditions as the court may think fit, and in particular, may require the adopter by bond or otherwise to make for the adopted child such provision (if any) as in the opinion of the court is just and expedient."

Subsections (1) and (2) of section 5 contain the provisions concerning property and succession. They define very clearly just what the effect of the adoption order is, and it therefore seems well to quote them exactly.

5 (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parent or parents, guardian or guardians of the adopted child in relation to the future custody, maintenance and education of the adopted child, including all rights to appoint a guardian or to consent or give notice of dissent to marriage shall be extinguished, and all such rights and duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as though the adopted child were a child born to the adopter in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain its parents the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.

(2) An adoption order shall not deprive the adopted child of any right to or interest in property to which, but for the order, the child would have been entitled under any intestacy or disposition, whether occurring or made before or after the making of the adoption order, or confer on the adopted child any right to or interest in property as a child of the adopter, and the expression "child," "children" and "issue" where used in any disposition whether made before or after the making of the adoption order, shall not, unless the contrary intention appears, include an adopted child or children or the issue of an adopted child.

The remaining subsections of section 5 indicate that if the adopted child does receive property by disposition from the adopting parent, the same rate of inheritance duty shall be paid as is the case with natural children, and that in cases in which the adopted child has been insured with reference to funeral expenses if death occurs under ten years of age, the adopting parent shall assume the policy, and be deemed the parent in respect of the insurance.

Section 6 provides that the court may issue an "interim" order, giving the custody of the infant to the applicant for a probationary period, not to exceed two years "upon such terms as regards provision for the maintenance and education and supervision of the welfare of the infant and otherwise as the court may think fit." This "interim" order is not an adoption order, but before such order can be made, consents must be had, just as in the case of an adoption order.

Section 8 stipulates that all rules concerning the act shall be

made by the lord chancellor. Subsection (3) of this section also provides that a guardian *ad litem* shall be appointed to inquire into the case and report to the court. This guardian *ad litem* may, with its consent, be a local authority. In London, the education authority of the County Council acts in this capacity in cases coming before the juvenile courts.

Section 10 is important, but applies only to the first two years of the operation of the act. If any parents who have for at least two years before January 1, 1927, been providing for a child as if it were their own (in other words, in cases of *de facto* adoptions of at least two years' standing) make application for an adoption order, the court may, if it deems it best for the child, waive the requirement concerning the consent of natural parents, and, further, may make an adoption order in favor of a male and in respect of a female infant.

Section 11 makes detailed provision for the registration of all adoption orders with the registrar-general, and for the exact form which his record shall take. Section 12 merely indicates a short title for the act, and says that the act shall become effective January 1, 1927.

The law as enacted seems, in so far as can be judged after so brief a period of operation, to be working very satisfactorily. The home secretary, Sir William Joynson-Hicks, indicated, on the second reading of the bill, that it was a measure likely to need revision after a few years.[1] Mr. Justice Hall points out a rather imposing array of difficulties in the law, most of which do not seem to have become serious obstacles to its smooth operation. He says:

> Many points of special difficulty arise under the Act, none of which have as yet been determined by a court of competent authority.
>
> Amongst them are the questions as to whether a man may marry his adopted daughter, or his sister by adoption; whether an adopted child ceases to be an orphan for the purposes of continuing in receipt of a pension; who are the persons "liable to contribute" to the support of a child, and who must, in consequence, be made respondents; whether there is any power to dispense with service on *any* respondents; whether an appeal lies, and if so, to what court; how costs are to be enforced under the Act; what is the meaning of the words "it shall not be lawful" in section 9, of "satisfied" in section 3, of "special

[1] Hansard, *op. cit.*, CXCII, 939.

circumstances" in section 2; whether an illegitimate child who has been adopted is legitimated by the subsequent marriage of its natural parents, etc.[1]

On the basis of a year and a quarter of operation of the law, as reported to them in a special inquiry addressed to all courts in England and Wales having jurisdiction under the act, Mr. S. W. Harris, head of the Children's Branch of the Home Office and a member of the Tomlin Committee, and Dr. Arthur H. Norris, chief inspector of home office schools, express satisfaction in the law in the following words:

> Generally speaking, the replies of the courts indicate that the Adoption of Children Act is working well and smoothly and that considerable benefit results both to adopting parents and to adopted children. The Clerk of one Juvenile Court says: "I think the Act is useful and beneficial. I have found no difficulty in working the Act and the rules so far. From what I have seen, the Act is not only of great benefit to the child adopted, but also to the adopting parents, who in many cases, are, though childless, very fond of children. The privacy of the proceedings is, I think, wise, and is appreciated." Another Clerk says: "The Act and rules are working very well. Generally I have been much struck by the fact that in all the cases before us, the children adopted appear to be getting much better homes than the large majority of the children in the homes of the working classes where there are a number of children."
>
> It is satisfactory to find that an Act which introduced a novel principle of law and which is concerned with so fundamental a matter as family relationship, has been brought into operation with such marked success.[2]

Two sources of information are available concerning the numbers of adoption orders made and the numbers of children affected by them. The first is the report of the Registrar-General for the year 1927. The second is the report gathered by the Children's Branch of the Home Office concerning the year 1927 and the first quarter of 1928. The tabulations given in those reports appear below.

It will be noted that there is a discrepancy of 206 in the numbers of children reported as adopted, the registrar-general reporting the smaller number. The discrepancy may be due to careless reporting by some courts to the registrar-general, or it may be that some cases begun in 1927 and completed in 1928 appear in the report of the Children's Branch as of 1927, when they were not really recorded

[1] Hall, *The Law of Adoption*, p. 11.

[2] *Fourth Report on the Work of the Children's Branch, Home Office, November, 1928*, p. 84.

by the registrar-general until 1928. No analysis is made of the figures presented in the report of the registrar-general. However, in

TABLE I*

SUMMARY OF ADOPTIONS FOR THE YEAR 1927

| NUMBER OF ADOPTION ORDERS DEALT WITH | | | | NUMBER OF CHILDREN, I.E., ENTRIES MADE IN ADOPTED CHILDREN REGISTER | | | | |
|---|---|---|---|---|---|---|---|---|
| Total | High Court | County Court | Court of Summary Jurisdiction | Total | March Qrt. | June Qtr. | Sept. Qtr. | Dec. Qtr. |
| 2,943..... | 133 | 184 | 2,626 | 2,967..... | 329 | 990 | 774 | 874 |

* *Statistical Review of England and Wales for the Year 1927* (New Annual Series No. 7), p. 139.

TABLE II*

NUMBER AND PARTICULARS OF ADOPTIONS FOR THE YEAR 1927

| | Applications | Adoption Orders | Interim Orders | Applications Refused | Applications Withdrawn, etc. | Applications Pending or Standing Over |
|---|---|---|---|---|---|---|
| High court..... | 207 | 162 | ..... | ..... | ..... | 41 |
| County court..... | 239 | 213 | 15 | 1 | 4 | 9 |
| Juvenile court..... | 3,026 | 2,798 | 86 | 68 | 87 | 41 |
| Total..... | 3,472 | 3,173 | 101 | 69 | 91 | 91 |

* *Fourth Report on the Work of the Children's Branch, Home Office, November, 1928*, p. 81.

TABLE III*

NUMBER AND PARTICULARS OF ADOPTIONS FOR THE FIRST THREE MONTHS OF 1928

| | Applications | Adoption Orders | Interim Orders | Applications Refused | Applications Withdrawn, etc. | Applications Pending or Standing Over |
|---|---|---|---|---|---|---|
| High court..... | 27 | 48 | ..... | ..... | ..... | 26 |
| County court..... | 72 | 68 | 3 | ..... | 1 | 13 |
| Juvenile court..... | 815 | 750 | 16 | 12 | 27 | 35 |
| Total..... | 914 | 866 | 19 | 12 | 28 | 74 |

* *Ibid.*

the report of the Children's Branch, the following enlightening comment and summary appears:

These figures are interesting as showing first that the demand for a system of legalized adoption was not made without justification, and that a considerable number of persons have taken advantage of the facilities given by the Act; and secondly, that the applications made to the Juvenile Court exceed by more than seven times the number made to the High Court and the County Court together.

The High Court made adoption orders in respect of 210 infants during the period of 15 months. The ages of the children adopted were as follows: 36 were 2 years of age; 66 were aged 2 to 7 years; 88 were aged 7 to 14 years; and 20 were aged 14 to 21 years. 138 of the infants were illegitimate, and 17 were the illegitimate children of the adopters. 147 were *de facto* adoptions. In 21 cases the adopters were men; in 51 cases the adopters were women; and in 138 cases the adoptions were made by married couples adopting jointly.

Returns were obtained from 453 County Courts. Of these, 331 received no applications. The remaining 122 courts received applications during the period of 15 months in respect of 311 infants and made adoption orders in 281 cases. 71 of the children adopted were under 2; 107 were aged 2 to 7; 88 were aged 7 to 14; and 15 were aged 14 to 21.

The number of Juvenile Courts available for dealing with adoption cases is 1,041, and returns were furnished by 1,022 courts. 528 courts received no applications and to these may presumably be added the 19 courts from which no reply was received. The remaining 494 courts received applications in respect of 3,841 children and made adoption orders in 3,548 cases. Interim orders were made in 102 instances and 80 applications were refused. A small proportion of applications did not reach the point of decision either because they were withdrawn by the applicants or otherwise disposed of, or because they were still under consideration at the end of the period. In approximately one-half of the cases the child had been in the adopter's care from two years or more before the first of January, 1927.

Of the children adopted about 30 per cent. were under two years of age, and about 5 per cent. were aged 14 to 21 years. About two-thirds were of illegitimate birth and among these were a small number whom one or both of their parents sought to adopt.

In the majority of instances (about 85 per cent.) the adopters were married couples adopting jointly; but in nearly 600 instances, the order was made in favor of one adopter only, the adopting parents including about 450 men and about 150 women.[1]

Thus it appears that the English Adoption Law is filling a real need in the general program for the care of children in that country. Many still feel, with a considerable measure of justice, that the position of the adopted child with reference to succession and inheritance ought to be strengthened. The most remarkable thing about the law remains, however, the lateness of its adoption in a country whose roster of social legislation is so extensive as is that of England.

EARL D. MYERS

LONDON, ENGLAND

[1] *Fourth Report on the Work of the Children's Branch, Home Office, November, 1928*, p. 84.

# SOURCE MATERIALS

## THE WELLESLEY CASE AND THE JUVENILE COURT MOVEMENT

### EDITORIAL NOTE

THE development of the criminal law with its institutions of the grand jury, the indictment, trial by the petit jury, and so forth, meant the substitution of public punishment for private vengeance under conditions that would gradually induce those injured to submit to public prosecution and to forego the satisfaction of private revenge and at the same time safeguard the interests of the innocent accused in giving the opportunity to defend himself against the alliance of the injured and the public.

The substitution of public punishment for private vengeance is by no means accomplished, so long as mobs take the law into their own hands or juries acquit both men and women for taking advantage of what is called the "unwritten law"; and even when it is accomplished, it is recognized as inadequate in the case of young persons accused of wrongdoing, and the substitution of the principle of *treatment* for that of *punishment* is the aim of those concerned for the better care of juvenile delinquents, or of young persons for whom a more comprehensive program of care is to be worked out. The great recent expression of this determination to substitute treatment for punishment is the juvenile court, which has in some form been either actually established or recognized in legislation in all the states of the Union.

This movement, which dates in legislative expression from 1899, when the Illinois Juvenile Court Law was passed, has not had smooth sailing, for it rested upon a doctrine of public power, with reference to the child needing care, apparently opposed both to certain safeguards set up with regard to criminal procedure and to the ancient right of the father to exercise control over the person of his child. That there was an ancient repository of authority to

do what was good for a child, that that authority was the court of equity or of chancery, that the only questions were whether the court could get hold of the child, how the court could learn what was good for the child, and where the court could find the resources for dealing with the child for whom a plan was made; these principles were laid down in the great case of *Wellesley* v. *the Duke of Beaufort*, to which Judge Mack and Mr. Bernard Flexner called the attention of students nearly twenty years ago.[1] The opinion in that case was rendered by the great Lord Chancellor Eldon (April 14, 1801—February 2, 1806; April 1, 1807—April 30, 1827), who sat on the woolsack for a longer period than any other chancellor.

The doctrine of the Wellesley case is called "strong doctrine," and by it is supported the view that there is in the state a super-parental power which overrides the right of the parent to the custody of the child and renders possible a tribunal in which the need of a child for public care and treatment can be established, with power to transfer the child to another person for custody or to commit to an institution, and this without indictment of either parent or child and without the presence of a jury.

The juvenile court is in many jurisdictions Lord Eldon's court, made accessible to all in behalf of children in need of care, given facilities through the probation staff to ascertain what the children need and to carry out plans, and through provision of mothers' allowances, boarding funds, special kinds of guardians, and various kinds of institutions to do for each what is found to be needed.

A few facts about Lord Eldon will be of interest in this connection. His name was John Scott, and he was born in 1751 in Love Lane, Newcastle-on-Tyne, the son of William Scott, who was at that time a coal factor, that is, a person who transacted business between the miner and the general merchant in coal. His grandfather was a yeoman of Sandgate, Newcastle-on-Tyne. The father prospered, was twice married; and John, who was the son of the second marriage, was one of thirteen children, of whom six reached mature age. Of these, three were sons, and an older brother, William, was after-

[1] Breckinridge and Abbott, *The Delinquent Child and the Home*, p. 182; see also Flexner and Oppenheimer, *The Legal Aspects of the Juvenile Court*, U.S. Children's Bureau Publication No. 99, p. 1.

ward Lord Stowell. The children were taught by a Scotch dominie, then in a free grammar school in Newcastle, and afterward both John and his brother William were students at Oxford. Here John obtained a fellowship, took the Bachelor's degree in 1770, a Master's degree in 1773, and was granted the degree of Doctor in Civil Law in 1801. In 1772 he eloped with the daughter of a wealthy banker in Newcastle. His elopement was followed by two marriage ceremonies.

He became a member of the Middle Temple and was called to the bar February 9, 1776. His maxim was that a lawyer should "live like a hermit and work like a horse," and he acquired rapidly a mastery of the complicated fields of equity and real property as well as of the common law. He became a member of Parliament as an independent friend of the king in 1782. In 1787 he was chancellor of the County Palatine of Durham. In 1793 he was appointed attorney general and became "the best hated man in England." In 1799 he was appointed lord chief justice of common pleas and then created Baron Eldon of Eldon. In common law he was prompt in decisions. As chancellor he was severely critized as being dilatory. The criticism seems, however, not to have been justified according to the verdict of the soundest legal authorities. On April 14, 1801, he became lord chancellor and remained so until February 2, 1806. During this period he opposed the abolition of the slave trade, the emancipation of the debtor, and the emancipation of the Catholic. From February 2, 1806, until April 1, 1807, he was chiefly absorbed as adviser to the royal family. On that date he again mounted the woolsack. He was during these periods of paramount influence in the cabinet. He was of highly conservative, if not reactionary, influence. He resisted, for instance, the proposed reforms of Sir Samuel Romilly, but his ruling in the Wellesley case might be called an essential stone in the foundation on which rests a great constructive movement in behalf of childhood. On July 2, 1821, he was created Viscount Encombe and Eldon, left the woolsack permanently April 30, 1827, and died January 13, 1838.

A learned lawyer was recently heard to remark, after he had listened to an address by a woman serving as a juvenile court judge, that it would be interesting if Lord Eldon could return to see a chancellor's chair occupied by a judge of a modern juvenile court.

Before her would appear thousands of propertyless children to whom the doors of the court had been thrown open, for whom advisory agencies had been set up, and for whom resources and treatment, not adequate but very large, had been created. The modern chancellor might wear the skirts that would indicate her sex but not the robes that would have indicated his state.

## *WELLESLEY* V. *THE DUKE OF BEAUFORT*

(2 RUSSELL 1)

BETWEEN

WILLIAM RICHARD POLE TYLNEY LONG WELLESLEY, JAMES FITZROY HENRY WILLIAM POLE TYLNEY LONG WELLESLEY, and VICTORIA CATHERINE MARY POLE TYLNEY LONG WELLESLEY, Infants, under the Age of Twenty-one Years, by the Honourable PHILIP PUSEY, their next Friend,. . Plaintiffs

AND

CHARLES HENRY Duke of Beaufort, and Others,. . . . . Defendants. (November 5, 7, 9, 1825; February 21, 24, March 17, 18, 21, April 18, 1826; January 16, 17, 18, 22, 25, 27, 29, February 1, 1827.)

Catherine Pole Tylney Long, being entitled, in fee-simple, to certain estates, and tenant for life of other estates, with remainder to her first and other sons in tail male, the whole producing an income of about 40,000 *l.* a-year, intermarried, in March 1812, with William Wellesley Pole. By her marriage-settlement, an income of 13,000 *l.* a-year was secured to her as pin-money. Subject to the payment of that annuity and of certain other sums, a life-interest in those estates of which she had the fee, was given to her husband, a power being reserved to him and her to charge them by way of mortgage with the sum of 100,000 *l.*; and the entailed estates were settled on him during the joint lives of himself and his wife. The three infant plaintiffs were the only issue of the marriage.

Though the 100,000 *l.* had been raised, Mr. Wellesley became so embarrassed in his pecuniary circumstances, that, in 1821, he was compelled to take refuge from his creditors by withdrawing to the continent, where he lived on the separate property of his wife. He and his family, after spending some time in France, took up their abode at Naples, in 1822; and, about the end of May 1823, they renewed their acquaintance with a Mrs. Bligh, who had been formerly known to them, and who, along with her husband, had just arrived in that city. On the 31st of July following,

Mrs. Bligh quitted her husband's house, in consequence (at least such was the general rumour) of an illicit intercourse which had commenced between her and Mr. Wellesley. To contradict this report, Mr. Wellesley made an affidavit before the British Vice Consul, denying that any such intercourse had taken place, or that he had ever visited Mrs. Bligh, except in an open manner; and he prevailed upon his wife to give countenance and protection to that lady, and to admit her into her house. In the following October, Mrs. Bligh travelled, with the family, from Naples to Albano; and, joining them at Florence a few days afterwards, continued to reside with them; but, after some time, the circumstances, which occurred there, induced Mrs. Wellesley to communicate to Mrs. Bligh, that it was necessary for her to quit their house, and to seek the protection of her own friends in England.

Accordingly, in December 1823, Mrs. Bligh quitted, in appearance, Mr. Wellesley's family. In fact, however, she remained in an apartment in the same hotel till the April following, when the fact came accidentally to Mrs. Wellesley's knowledge; and, during the whole of that interval, Mrs. Bligh was in constant intercourse with Mr. Wellesley. In May 1824, Mr. and Mrs. Wellesley arrived in Paris, whither Mrs. Bligh had gone before them. Mrs. Wellesley immediately wrote to her husband's father, Lord Maryborough, requesting him and Lady Maryborough to come to her assistance; expressing at the same time her readiness to continue her affection to her husband, notwithstanding what she called "his profligate and unprincipled conduct," and even to sacrifice part of her own fortune, in order to make a provision for Mrs. Bligh, if he would separate himself from that woman, and never visit her more. Lord and Lady Maryborough hastened to Paris, but were unable to detach their son from the connection he had formed. His wife then wrote to him, declaring, that the treatment she had for many months endured from him, had been such as she could no longer submit to, and that she was resolved to separate from a husband "who, in conduct, had already abandoned her." Shortly afterwards, she returned to England, with the purpose of living separate from him. He consented that the children should go with her; and wrote her a letter, in which he observed, that, "having, with a deep infliction of suffering to his feelings, assented to a separation from his children, he considered it was not much to request and hope, that she would attentively follow his wishes with regard to their treatment." Mrs. Wellesley, in her answer, expressed the great satisfaction she felt at her children being allowed to accompany her; and assured him that, as far as should lie in her power, she should be happy to attend strictly to the

wishes he had expressed, and to the instructions he had given for their management.

Mr. Wellesley remained on the continent; residing with Mrs. Bligh at Paris, Dieppe, the Hague, and other places. Early in June 1825, his wife resolved to institute proceedings for a divorce in the ecclesiastical court, and this her resolution was made known to him. About the 25th of that month, he and Mrs. Bligh came to England; but his return was not known to his family or to his wife, till the evening of the 7th of July, when he went to the house in London where his wife was residing. Mrs. Wellesley, alarmed and surprised at hearing his voice, escaped with her daughter from the house without seeing him, and took refuge with her uncle. On the following day she caused a bill to be filed in Chancery, with a view to make the infants wards of court, and to protect them against the attempts, which, it was apprehended, the father might make to obtain possession of their persons, and to remove them abroad. On the same day, he was served with a citation for a divorce at her suit.

Mr. Wellesley and Mrs. Bligh returned immediately to the continent; and Mrs. Wellesley gave notice to the trustees of her marriage-settlement to discontinue the annual payment which she had hitherto caused to be made to him out of her pin-money.

On the 12th of September, she died; having, five days before, enjoined her sisters, the Misses Long, to resist every attempt which Mr. Wellesley might make to remove the children. After her death, the infants remained under the care of their aunts; Mr. Pitman, a tutor selected for them by their father, who had been with them during the whole of the time they had spent abroad, and ever since their return to England, continuing to reside with them.

On the 30th of September, a bill was filed in their name, by their next friend, against the persons in whom the legal interest in their mother's estates was vested, praying that the usual accounts might be taken; that the portions of the two younger plaintiffs might be raised; that a proper person might be appointed to have the care of the persons of the three infants during their minorities; and that an allowance might be made for their maintenance. The bill was afterwards amended, for the purpose of adding formal parties.

In the meantime, Mr. Wellesley was residing in France with Mrs. Bligh, who had there given birth to a child, the offspring of their illicit connection. After the death of his wife, he made repeated applications to the Misses Long for the custody of his children; directing at first that they should be sent abroad to him, but subsequently stated that he was

only desirous that they should be taken to the family-seat in Wiltshire. With these applications the Misses Long refused to comply; and in their refusal they were sanctioned, as they alleged, by the approbation of the nearest relations of the infants, as well on the father's side as on the mother's side.

In October 1825, Mr. Wellesley caused a writ of *habeas corpora* to be issued from the Court of King's Bench, and served on the solicitor of the Misses Long, for the purpose obtaining possession of the persons of the infants. On the 3d of November, and before the return of the writ, a petition in the cause was presented to the Lord Chancellor, in the names of the infants, alleging that Mr. Wellesley, who was then resident in France, intended to remove them out of England, and praying that he might be ordered to desist from prosecuting the writ of *habeas corpora*, and from taking possession of the persons of the infants, or attempting so to do.

This petition came on to be heard on the 5th day of November 1825; and, after considerable argument, the Lord Chancellor having intimated his opinion that the circumstance of Mr. Wellesley being then resident in France was alone sufficient to justify the Court in refusing to him the actual custody of the infants, Mr. Wellesley's counsel desisted from pressing his claim.

On the 8th of November 1825, Mr. Wellesley presented a petition, in which he stated that, being then in France, and having no establishment fit for the residence and superintendance of the education of his children, he was desirous of having a proper scheme and plan for that purpose, settled and approved by one of the Masters of the Court; and that he was willing to conform to and promote such plan for the benefit of the infants. The prayer was, that it might be referred to one of the Masters to approve of a plan for the education of, and a proper and suitable establishment for, the infants, and for their residence.

Both petitions came on to be heard before the Lord Chancellor on the 9th of November 1825, when his Lordship made an order, "That it should be referred to the Master to consider and approve of a plan for the education of, and a proper and suitable establishment or proper and suitable establishments for, the infants, and for their residence; and it was ordered, that the said Master should approve of a proper person or persons to act as guardian or guardians of the said infants, until the further order of the Court; and, in order thereto, it was ordered that the Master should inquire, and state to the Court, what relations, other than their father, the said infants had, and state on what evidence or ground he approved

of any particular person or persons to act as aforesaid; and it was ordered that the person or persons in whose custody the infants then were, should be at liberty to attend the Master upon the said reference, and the Master was to be at liberty to proceed *de die in diem*, and after the Master should have made his report, such further order should be made as should be just; and it was ordered, that the infants should not be removed out of the custody of the person or persons in whose custody they then were, until the further order of the Court; and it was ordered, that Mr. Wellesley should be restrained from interfering with the infants in their then present situation, until the further order of the Court."

Before this order could be drawn up and acted upon, Mr. Wellesley, on the 14th of December, returned to England. On the 4th of January, he presented a petition stating, that the infants were still residing with the Misses Tylney Long; that the petitioner had returned to England, with the intention of taking up his permanent residence in this country; that he had purchased, and was in possession of, and resident in, a suitable mansion, with two acres of land, immediately adjoining to the Regent's Park, which was intended by him for the future residence of himself and family, and was in every respect a proper and suitable residence for them; and that he claimed, as the father and natural guardian of the infants, the immediate custody of their persons, and the future management and control of their education and maintenance. The prayer was, that the order dated the 9th day of November 1825, might be rescinded, and "that the Misses Long might forthwith, on a day to be named, deliver over the infants to the care and guidance of their father."

Various affidavits were filed in support of, and in opposition to, this petition; and, after considerable argument, the Lord Chancellor, having alluded to the many direct contradictions as to matters of fact which the affidavits presented, expressed an opinion, that upon some points further explanation and evidence might be given. Additional affidavits were then filed on both sides.

Mrs. Bligh, having come to London in the month of February, while the petitions were pending, renewed her intercourse with Mr. Wellesley; and part of the case ultimately made against Mr. Wellesley, related to his connection with her, subsequently to the presenting of his petition. In the meantime, her husband had brought an action against him for adultery, and had recovered heavy damages.

Under these circumstances, the petition came again to a hearing. . . . .[1]

[1] [The statement about evidence and the lawyers' arguments are omitted.]

THE LORD CHANCELLOR.

It appears to my mind quite clear, that, about the 20th of May 1825, Mrs. Wellesley determined to seek a separation from her husband, by a sentence of the Ecclesiastical Court. Whether a determination to that effect had been absolutely taken before that period or not, does not clearly appear: that it was then taken, I have no doubt; and the date is material, for reasons I shall have occasion to advert to. Upon the 28th of August 1825, accordng to a letter of Mrs. Wellesley, which has been read in evidence, (and which letter from Mrs. Wellesley, in a case of this sort, considering what has been tendered in evidence on the other side, is testimony to which I am bound to give attention), Mrs. Wellesley had learnt from Lord Maryborough, that Colonel Shawe had informed him that Mr. Wellesley had declared (and the declaration is of considerable importance), that, if he could not obtain the possession of his children by law, he would have them by stratagem. That declaration follows, too, very soon after a letter to Mr. Pitman, in which Mr. Wellesley states what I would represent as being, perhaps, his notion of law—namely, "that a man and his children ought to go to the devil in their own way if he please," adding in a postscript "that neither God nor the devil shall interpose between him and his children." Mrs. Wellesley, immediately after that communication from Lord Maryborough, seems to have given directions for making an application to the Court of Chancery.

Accordingly a bill is filed, which places the fortune, and consequently the care and custody, of the children under the protection of this Court. Mr. Wellesley being then abroad, it was quite clear (according to all that has been long settled in this Court), that, notwithstanding the acknowledged legal right of a parent to the custody of his children, the Court, if he were abroad, and their property were put under its care, would not suffer him to interfere with respect to the infants; because it could not make him responsible for his conduct towards them: and it has always been the principle of this Court, not to risk the incurring of damage to children which it cannot repair, but rather to prevent the damage being done. Accordingly, an application being made to the Court to appoint some person to take care of the children, an order was made; but the order was not drawn up, as, in consequence of circumstances that occurred afterwards, it became unnecessary to do so.

Mr. Wellesley came to England on the 14th of December 1825. About a month afterwards he presented a petition, stating that he had returned to this country, that it was his intention to reside in it permanently, and that he was in possession of a suitable mansion; and praying that the order

I have alluded to might be rescinded, and that the Misses Long might deliver to him the infant plaintiffs. An order had been previously made by this Court, that the children should not be taken out of the custody of the Misses Long without the leave of the Court.

This naturally brought on a most distressing discussion. I will give no opinion (because it does not become me to do so), as to whether it were a discretion properly or improperly exercised, that this matter was not heard in private. In most cases, certainly, it has been thought expedient that matters of this kind should be heard in private; but if the parties choose to have matters of so much delicacy, but of such mighty importance, discussed and argued in public, I know that it is one of the best securities for the honest exercise of a judge's duty, that he is to discharge that duty in public. That duty I will discharge as well as I can—recollecting that what I am called upon to do is a strong measure; that the interposition of this Court stands upon principles, which it ought not to put into operation without keeping in view all the feelings of a parent's heart, and all the principles of the common law with respect to a parent's rights; and that, though the Court has interposed in many instances of this sort, the application is one of the most serious and important nature.

It has not been doubted at the Bar, that this jurisdiction belongs to the Court and to the individual who sits in it. It is right that the Bar should so treat the subject, because (whether it be fit or not that such a jurisdiction should be suffered to remain) I take it to have been long settled by judicial practice, that such is the law of the country; and, when it has been so settled, counsel do not act according to a right view of their duty, if they seek to disturb that settled course of practice. That settled course forms the law of the land; and the judge is bound to follow that law so settled, and so to see that it is put into execution.

So much has passed with reference to this subject, as to make it not altogether inexpedient to say something on the nature of the law, as between parent and child, which is administered in this Court. I do apprehend, that, notwithstanding all the doubts that may exist as to the origin of this jurisdiction, it will be found to be absolutely necessary that such a jurisdiction should exist, subject to correction by appeal, and subject to the most scrupulous and conscientious conviction of the judge, that he is to look most strictly into the merits of every case of this kind, and with the utmost anxiety to be right. It has been questioned, whether this jurisdiction was given to this Court upon the destruction of the Court of Wards, (which, however, it is impossible to say could have been the case, when we recollect the nature of the jurisdiction), or whether it

is to be referred to circumstances and principles of a different nature; more especially, whether it belongs to the King, as *parens patriae*, having the care of those who are not able to take care of themselves, and is founded on the obvious necessity that the law should place somewhere the care of individuals who cannot take care of themselves, particularly in cases where it is clear that some care should be thrown round them. With respect to the doctrine that this authority belongs to the King as *parens patriae*, exercising a jurisdiction by this Court, it has been observed at the Bar, that the Court has not exercised that jurisdiction, unless where there was property belonging to the infant to be taken care of in this Court. Now, whether that be an accurate view of the law or not; whether it is founded on what Lord Hardwicke says in the case of *Butler* v. *Freeman* (Ambler, 303), "that there must be a suit depending relative to the infant or his estate," (applying, however, the latter words rather to what the Court is to do with respect to the maintenance of infants); or whether it arises out of a necessity of another kind, namely, that the Court must have property in order to exercise this jurisdiction:—that is a question to which, perhaps, sufficient consideration has not been given. If any one will turn his mind attentively to the subject, he must see that this Court has not the means of acting, except where it has property to act upon. It is not, however, from any want of jurisdiction that it does not act, but from a want of means to exercise its jurisdiction; because the Court cannot take on itself the maintenance of all the children in the kingdom. It can exercise this jurisdiction usefully and practically, only where it has the means of doing so; that is to say, by its having the means of applying property for the use and maintenance of the infants.

That such has been the doctrine of this Court for a long series of years, no one can deny. The law makes the father the guardian of his children by nature and by nurture. An act of Parliament has given the father the power of appointing a testamentary guardian for them: one should think that the guardian so appointed must have all the authority that Parliament could give him; and his authority is, perhaps, as strong as any authority that any law could give. But it is above a century ago, since, in the case of the *Duke of Beaufort* v. *Berty* (1 P. Wms. 703), the Lord Chancellor of that day, Lord Macclesfield, determined, that the statute-guardian was subject to all the jurisdiction of this Court. The Lord Chancellor in effect said, "I will not place the statute-guardian in a situation more free from the jurisdiction of this Court than the father is in": so that he applied the acknowledged jurisdiction over the father, as a justification for interfering with the testamentary guardian. The former juris-

diction he stated as the acknowledged law of the Court. And he went further, for he added, "that, if he had a reasonable ground to believe that the children would not be properly treated, he would interfere, upon the principle that *preventing justice* was preferable to *punishing justice.*

Has Lord Macclesfield's doctrine been followed or not? There are a great many cases to be found upon the records of the Court, which do not appear in the reports. I was counsel in the case of *Powell* v. *Cleaver* (2 Bro. C.C. 499), and Lord Thurlow would not allow us to argue the question of jurisdiction; and perhaps he was right. He said that the Court would take care that children should be properly educated according to their expectations. He held the same doctrine in *Creuze* v. *Orby Hunter* (2 Cox 242), and the principle was followed by me in *De Manneville* v. *De Manneville* (10 Vesey 52). Lord Bathurst made an order to prevent a Protestant child from being sent to a Roman Catholic school. This Court, with reference to the distinction between Protestants and Catholics, interfered *then* in the education of children, in many cases in which it would not interfere *now.*

The important consideration is,—is it necessary that the Court should thus interpose? If this Court has not the power to interpose, what is the provision of law that is made for the children? You may go to the Court of King's Bench for a *habeas corpus* to restore the child to its father; but when you have restored the child to its father, can you go to the Court of King's Bench to compel that father to subscribe even to the amount of five shillings a year for the maintenance of that child? A magistrate may compel a trifling allowance, but I do not believe that there was ever a mandamus from the Court of King's Bench upon such a subject. Wherever the power of the law rests with respect to the protection of children, it is clear that it ought to exist somewhere: if it be not in this Court, where does it exist? Is it an eligible thing that children of all ranks should be placed in this situation—that they shall be in the custody of the father; although, looking at the quantum of allowance which the law can compel the father to provide for them, they may be regarded as in a state little better than that of starvation? The courts of law can enforce the rights of the father, but they are not equal to the office of enforcing the duties of the father. Those duties have been acknowledged in this his Majesty's Court for centuries past.

Having thus shortly alluded to some of the cases, and referring to the cases themselves for a more large exposition of the grounds upon which this jurisdiction stands, I repeat, that I find myself in this seat humbly representing his Majesty, and bound by the settled law of the land. I

cannot now retire from the discharge of this duty—I dare not violate the principles which grow out of the practice of the Court. My duty is to apply those principles honestly; to look diligently to all the circumstances of the case, and, with judicial integrity (by which must be always meant an integrity of the purest nature), to determine manfully, and manfully to declare what my opinion is.

In most of the cases of this kind, the Court has had the satisfaction of being enlightened by a species of evidence, of which I have little or none in the present case—I mean the evidence of near relations. It is unquestionably a most painful duty for persons, who are near relations of the family, to come forward to give information on subjects of this nature. Whenever they do so, however, they furnish the Court with the best evidence which it can obtain—evidence which must be painfully and reluctantly given, and which, in general, therefore, may be much relied on. That this has been the opinion of Mr. Wellesley himself, as well as my own opinion, I think I may venture to state, because it appears on his affidavits.

[Here the Lord Chancellor read some passages of Mr. Wellesley's affidavits, which intimated that it was not the wish of the family that he should be deprived of the custody of his children. His Lordship read also the counter-evidence which had been adduced concerning the sentiments of Mr. W.'s uncles, Duke of Wellington and Marquis Wellesley, and of his father, Lord Maryborough on that subject.]

With reference to the views and feelings of Lord Maryborough, the Lord Chancellor said:

The affidavit of Lord Maryborough is to the following effect:—"That, his name having been brought before the Court in the proceedings in this cause, most unexpectedly, and in a manner calculated to make an erroneous impression as to his conduct, he considers it necessary to state, that, soon after the death of Mrs. Wellesley, the Misses Long communicated to this deponent, that they were desirous to comply with their late sister's injunction, that the infant plaintiffs might be continued Wards of this Honourable Court, and that he (Lord Maryborough) should be appointed their guardian." That the mother did give that injunction is beyond all doubt; and that she gave it with a view to keep the children out of the custody of their father, is also beyond all doubt; so that, to a certain extent, one must look at her as having made a dying declaration, that the children ought not to be in the custody of Mr. Long Wellesley. It is, however, due to what appears to me to be the truth of this case, to say, that, (by whatever motive she, Mrs. Wellesley, might be influenced), as,

on the one hand, when she and her husband parted in France, there was an understanding that they might come together again; so, on the other hand, notwithstanding all the wrongs she complained of, and all the sufferings she said she had undergone—notwithstanding that she intimates that she had been "the victim of many abandoned women,"—yet for the purpose, if possible, of preventing the world and this Court from throwing their eyes upon transactions of this nature, she was willing, if Mr. Wellesley would leave what she calls his abandoned courses, to have restored herself to him, and the children with herself, notwithstanding all the circumstances that belong to that abandoned conduct imputed by her to Mr. Wellesley. The affidavit goes on to state, "That on the 24th of October 1825, he (Lord Maryborough) received a letter from the solicitor of the Misses Long, respecting the guardianship of the infant plaintiffs, and stating that Mr. Wellesley had applied for a writ of *habeas corpus*, in order to obtain the delivery of the infant plaintiffs to his custody, or that of a person appointed by him; and that it was expedient to lay a statement of all the circumstances before the Lord Chief Justice of the Court of King's Bench."—It may not be improper for me here to observe, that, when these applications are made to the Court of King's Bench, that Court does so far acknowledge the authority of this Court, that the judges there, when required to administer a law, which they find they cannot administer beneficially, say, upon being informed that the case of the infants is before this Court, "Let the matter go on in the Court of Chancery; our modes of acting are quite imperfect upon such subjects: we enforce the rights, but not the duties of parents." Thus we have the concurrence of the Court of King's Bench as to what the law of the land on this subject is.—The affidavit of Lord Maryborough further states, "that, on the 30th of October, the deponent wrote the following answer: 'In reply to your letter of the 29th instant, I can only say, that I perfectly approve of every step the Misses Tilney Long have taken since their sister's death; but I entirely disapprove of Mr. Long Wellesley's proceedings. It has been long my determination, never, if possible, to have anything to do with Mr. Long Wellesley or his concerns. I have, therefore, declined taking any steps respecting the children; but as I cannot but feel that they are my grandchildren, I have said, that, if the Lord Chancellor should propose to me to become their sole guardian, I shall accept the trust, although it will be very troublesome, and subject me to great responsibility. The Lord Chancellor is the proper person to decide the issue between the Misses Tilney Long and Mr. Long Wellesley; and if he can do justice to my grandchildren without calling upon me

to be their guardian, it will be a great relief to me: yet, I say, I will not shrink from being sole guardian, if so desired by the Lord Chancellor. There can be no doubt that the case in all its bearings should be laid before the Lord Chief Justice; I can have no objection, but I must decline interfering at all in the business; but this can be no impediment to your stating the case. It may be as well to inform you, that there is no branch of my family, with whom I have communicated, who does not fully concur with me in approbation of the views of the Misses Tilney Long, and in reprobation of the conduct of Mr. Long Wellesley."—Now the views of the Miss Tilney Long were in obedience to Mrs. Wellesley's wishes, namely, that the children should not be put under Mr. Wellesley's care. Then, the same affidavit goes on to state, "that, shortly after the above correspondence, an order was made by this Court, as deponent is informed, that, in consequence of the father of these children being in France, and having no settled residence in England, it should be referred to the Master to report as to a proper guardian, allowance, etc.; and that the father, whenever he might return to England, should be at liberty to apply to this Court for the custody and future management of the infants: and this dependent feeling convinced that the effect of the order would be to bring him and his son in constant and conflicting arguments before the Court, and, having determined not to undertake so important a charge under circumstances which could not fail to cause public and unhappy discussions, the deponent declined the guardianship of the infant plaintiffs."

The Lord Chancellor then continued.

Now, do I go too far when I say, that this is negative evidence of what the family think upon the subject? That this is at least a case, in which none of the family will suggest to the Chancellor, that they think Mr. Wellesley should have the care of the children? I do not carry it so far as to say, that they give their opinions that he ought not, though it is not difficult to collect that the opinions of some of them are so. Neither the Duke of Wellington, nor Lord Maryborough, nor the Marquis Wellesley, think it proper, with respect to their infant relations, to suggest to me, that it is their opinion, that this gentleman ought to be entrusted with the care of his children.

I come now to consider the history of those proceedings which took place between the time of Mr. Wellesley being obliged to go abroad on account of the demands of his creditors, and the period when the first petition was presented to me. I was particularly anxious to know what the pecuniary circumstances of Mr. Wellesley are, for two reasons. First,

if it were proved that his circumstances were not such as to enable him to maintain the children, I should have been spared the agonizing duty of attending to various facts alleged to have taken place. I was anxious upon that point for another reason; namely, because, reflecting upon the nature of the jurisdiction as connected with property, it appears to me, that, whilst the Court looks at the duties of the father, it considers those duties as duties that impose upon him thus much—that if he be himself of ability to maintain the children (be their fortunes what they may), and to provide for them according to their expectations, it says, "you shall provide for them out of your own means, and not encroach upon the property of the children. . . . ."

I come now to consider the nature of the case itself. I am not called upon to say what would be the consequence of the mere act of adultery on the part of the father. I will give no opinion upon that, because it may be attended with so many circumstances, or it may be unattended with so many circumstances, as quite to alter the character of a case: and here I am not required to give an opinion upon that subject. All the antecedent conduct of Mr. Wellesley must be considered as having received the condonation of Mrs. Wellesley; and that condonation I am disposed to look at as testimony on her part, that she thought it would be for the interest of the family that the whole of the past should be overlooked. Nor is it necessary that I should give an opinion upon the subject of drunkenness, as there is no such imputation in this case. At the same time, I have no difficulty in saying, that, if a father be living in a state of habitual drunkenness, incapacitating himself from taking care of his children's education, he is not to be looked upon as a man of such reason and understanding as to enable him to discharge the duty of a parent; and, if such a case were to occur again, as it has occurred before, the Court would take care that the children should not be under the control of a person so debased himself, and so likely to injure them. . . . .

I have Mr. Wellesley's own authority for saying, that it would be a grievous thing to separate the daughter from the sons; and, in what he has so stated, I believe him. Now, I own I never will let that girl go into the custody of Mr. Wellesley, so long as he has any connection with Mrs. Bligh. Let me say, that the jurisdiction of the Court extends to restrain altogether, where it is necessary that it should do so; to modify that restraint, so as to shew that the sentiments of filial duty should be protected and cultivated in the children, by those who have the care and custody of them; and to take off the restraint which it has imposed. But, under the existing circumstances, is it proper that the girl should be

placed under the care of Mr. Wellesley, while he has any connection with this woman, Mrs. Bligh? Certainly not. . . . .

There is another witness, who gives extremely important evidence on this subject, Mr. Pitman, the tutor of the children. He swears, "That, when he first joined the family of Mr. Wellesley, at Calais, in 1822, he was much surprised and shocked on hearing the eldest infant plaintiffs use some very disgusting expressions, and utter the most coarse and vulgar oaths in French; that this led to his reproving them for such language, and to his pointing out that it was very sinful and improper, that the infant plaintiff, William, informed him that his father liked it, and always allowed him to do so; that he the deponent forbade him to use such language under the pain of his severe displeasure, and that the said infant plaintiff, by degrees, ceased to be guilty of it in his hearing; that, observing that Mr. Wellesley was in the almost constant habit of swearing, and not considering himself authorised to take upon himself the office of corrector of Mr. Wellesley's morals, deponent confined himself to admonishing and correcting the infant plaintiffs in this respect; that he has never heard Mr. Wellesley directly encourage the infant plaintiffs to swear, unless the circumstance of himself swearing in their presence, and not reproving them( except as hereinafter mentioned) when he heard them swear, can be so considered; that, having heard from others that Mr. Wellesley did encourage the infant plaintiffs to swear, and use obscene language, and expressions, he is induced to believe that Mr. Wellesley abstained from so doing in the presence of deponent, out of regard and consideration for him and his office of tutor to the infant plaintiffs; that, on one occasion, during the latter part of the time of deponent's residing with Mr. Wellesley abroad, viz. either at Florence or at Paris, the eldest infant plaintiff having uttered some oath, Mr. Wellesley said, 'Mind, William, I don't allow you to swear, except when you are in a passion,' or words to that effect." . . . .

Under these circumstances, I can never suffer the daughter to go under the care and custody of Mr. Wellesley, so long as there is any connection between him and a woman so abandoned as Mrs. Bligh appears to be. I cannot consent to separate the boys from the daughter; and, upon this point, I have the authority of Mr. Wellesley himself to say, that is a thing which ought not to be done. When I look at the whole conduct of Mr. Wellesley towards Mrs. Bligh, towards his children, and with reference to other points, which shew the tenor and bent of his mind upon certain certain subjects, and the nature of his sentiments, I say that, if the House of Lords think proper to restore these children to Mr. Wellesley, let them

do so; it shall not be done by my act. I therefore refer it to the Master, to consider under whose care these children should be placed. I know not whether there be any body who will accept this guardianship; but they, who do accept it, will deserve the thanks of this family, so long as there are any members of it able to render thanks. The office, which the individuals, who accept it, have to take, is not an enviable one. Into whatsoever hands these children may fall, it will be their duty to consult the interest and happiness of the children, by allowing filial affection and duty towards their father to operate to the utmost.

The order made was as follows:

"Upon hearing the said petition, the several affidavits of, etc., read, etc., his Lordship doth order, That it be referred to the Master in rotation, to inquire and report, to what person or persons willing (other than the Petitioner, the Hon. William Pole Tylney Long Wellesley) to undertake the same, the custody of the infants, William Richard Arthur Pole Tylney Long Wellesley, James Fitzroy Henry William Pole Tylney Long Wellesley, and Victoria Catherine Mary Pole Tylney Long Wellesley, and the care of their maintenance and education, should be committed, this Court not thinking it proper in the circumstances of this case, to make such order as is prayed by the petition of the Hon. William Pole Tylney Long Wellesley; and it is ordered, that the Master do inquire and state, what are the said infants' ages, and the nature and amount of their fortunes, and do state, on what evidence or ground he shall approve of any person or persons, to have the care of the said infants' maintenance and education; and all proper parties are to be at liberty to attend the Master thereon; and the Master, in making such inquiries, is to have regard to the fortunes of the infants respectively: And it is ordered, that the said Hon. William Pole Tylney Long Wellesley, and all other persons, be restrained from removing, or attempting to remove, the said infants, or any of them from the care and custody of Dorothy Tylney Long and Emma Tylney Long, without the permission of this Court and further order: And it is ordered, that the said Master do state upon what plan the person or persons, to whom, upon such inquiry as aforesaid, he shall report that such care and custody as aforesaid should be committed, propose to conduct and carry on the education of the said infants respectively; and what sum or sums are proposed to be, or can be, allowed and applied for their maintenance and education out of their fortunes; and that he report his opinion upon such plan and proposal for maintenance and education; and thereupon such further order shall be made as shall be just."

# RECENT COURT DECISIONS RELATING TO SOCIAL WELFARE

INTRODUCTORY NOTE

In this section, reference will be made to judicial decisions rendered by the courts of last resort in the various states and by the federal courts dealing with subjects in which the social workers are especially interested. These are, for the time, adoption, aliens, bastardy, charities, guardian and ward, husband and wife, infancy, insane persons, parent and child, and prisons.

It is hoped that several objects may be furthered in this way. In the first place, knowledge as to the points on which the law is being interpreted is of definite interest. Second, it is important that social workers should become aware of the extent to which there is agreement between the law and the social work attitude toward a number of problems. Some fields of law, such as that governing the relations of parent and child, husband and wife, and master and servant, have been revolutionized by statutory changes and the attitude of the judges toward these changes varies greatly, so that in some states they facilitate and in others they retard the progress so desired by social workers.

Some aspects of the law take on new interest as conditions change. This is particularly true perhaps of the law of charitable trusts, so well illustrated by Mr. Bradway's articles in recent numbers of this *Review*.

The decisions reported here were rendered between August 1 and November 1, 1929, and for lack of space are limited to the subjects of adoption, illegitimacy (bastardy), and charitable trusts.

ADOPTION

**Sears et ux. v. Davis et ux.,[1] 19 South Western Reporter (2d) (Texas Civil App.) 159**

The facts in the case were that a child was born April 21, 1925, and a few hours later was sent to Hope Cottage in Dallas. A week later the mother signed an instrument saying that one Richard Jones was the child's father and empowering Hope Cottage to find a home, possibly an adoptive home for the child. About a month later the child's parents were married. On July 7, 1925, defendants in this action adopted the child. About two years later the parents sought to recover the custody of the child, but their claim was denied by the lower court and the parents appealed. There was no question of relative fitness; both the natural parents and the adoptive parents were entirely fit. It was therefore a question of the effect of the moth-

[1] The same points were raised and the same arguments prevailed with the Court of Washington *in re Nelms*, 279 P. (Wash.) 748 (1929).

er's transfer to Hope Cottage, when she did not have a special adoptive parent in mind for the child she was giving away. There is great diversity of opinion with reference to the parental right of custody, and many cases are cited in this opinion. The lower court denied the mother's claim, but on appeal this decision was reversed and the mother's right was recognized.

A mother's voluntary relinquishment of the child's custody therefore by a void instrument was not equivalent to a proper transfer, and her lack of valid consent voided the adoption proceedings.

**Rochford v. Bailey, 17 South Western Reporter (2d) Mo. 941 (1929)**

In this case a child was born out of wedlock December 1, 1925. The parents subsequently married, and the child was given the father's name. A fortnight later, the mother was called to her mother's home in Oklahoma, placed the child with a nurse, to whom the father agreed to pay $25 a month, and remained until August, 1927, believing that the father was paying for the child. She had given the nurse a fictitious name, had not told her of her leaving home, and returned to find that the father had not made the stipulated payments, that the nurse had turned the child over to an institution, and that a decree of adoption had been entered by the juvenile division of the Jackson County Circuit Court on April 9, 1927. An order of publication was filed with the unverified adoption petition on which was the notation that the parents had "absconded and absented themselves from their place of abode." The Court held that sufficient effort had not been made to find the parents, that the notice to the mother was therefore not sufficient, and that the adoption decree was therefore invalid.

1. The court held that the adoption statute, being in derogation of the common law, is to be strictly construed, and that
2. The parent's consent given in writing or presumed from non-appearance after notice is a condition precedent to the jurisdiction.

**In re Finkenzeller's Estate, 146 Atlantic Reporter (N.J.) 656 (1929)**

The parents, domiciled in New Jersey, petitioned the Surrogate's Court of the county and state of New York for the adoption of an infant put then in the care of an institution in New York County, and a decree was entered May 4, 1920. The parents and the child after that time resided in New Jersey until March 2, 1926, when the adoptive mother died, leaving a will in which no provision was made for the disposition of her personal estate. This would go then to the administrator, who was the husband and adoptive father in this case. Under the New Jersey statute an administrator is entitled to all the personal property of a deceased person and is required to file an inventory of the estate only if on the request of a person interested in the estate the court orders it to be done. On petition of the adopted daughter, the Orphans' Court ordered the father to file an inventory, and he appealed from the order on the ground

that the New Jersey statute of distribution applied only to natural and not to children adopted under the laws of another state. The plea was, however, against the great weight of authority and was denied.

The legal principle decided, then, was that

A child adopted by a decree of a New York court may take personal property by descent from a parent domiciled in New Jersey.

ILLEGITIMACY: CASES UNDER BASTARDY LAWS

**Commonwealth v. Baxter, 166 North Eastern Reporter (Mass.) 742 (1929)**

In this case the defendant relied on evidence showing that the mother was an untruthful person and wished to introduce evidence showing that her reputation for veracity was not good. With reference to this evidence about the complainant's reputation, the defendant testified that he employed a stranger to come into the community to investigate the complainant's reputation for veracity; and the investigator interviewed five persons with reference to her reputation. The question, "What do you find her reputation in this respect to be?" was, however, excluded, as the reply would be based on hearsay only.

There were some interesting technical points such as that

1. The Massachusetts bastardy act is not unconstitutional because jurisdiction is given to the district court where either the complainant or defendant lives regardless of when the parties had intercourse, and that
2. A variance between the allegation that the act was committed in one district and the evidence that it was committed in another is not fatal, and that
3. A complaint in bastardy proceedings following the statutory form is sufficient and without alleging that either party lived within the judicial district; but the nature of reputation is the most interesting, and on this point the court held to be
4. Reputation is a fact to be proved by testimony of residents of the community, not by hearsay replies to individual questions.

**White v. the State, 149 South Eastern Reporter (Ga.) 304 (1929)**

In this case, the mother brought action in the city court in Polk County, Georgia, and alleged intercourse in that county. The defendant pled that a similar action has been brought in Floyd County and admitted intercourse with complainant as alleged in Floyd County Court. It was held that Polk County, where the mother resided and where the child was likely to become a public charge, had jurisdiction.

As between two counties then the county in which the child is likely to become a public charge rather than the county in which the parents had intercourse or the child was born has jurisdiction of the action.

**Hutchinson v. State, 123 Southern Reporter (Ala. App.) 102 (1929)**

The facts in this case appear sufficiently in the following statement of legal principles drawn from the court's opinion:

1. In a complaint under the Bastardy Act to admit testimony that the complainant, a nineteen-year-old girl, was motherless was sufficiently prejudicial to defendant's case to justify setting aside a verdict of guilty. The Court said:

> The presence of a nineteen year old girl, with a baby in her arms, testifying that any named man is the child's father, before a jury has a rather uphill job in refuting said girl's testimony and this is true be he ever so innocent of the charge made by her.
>
> It was altogether immaterial and irrelevant to the issue in this case as to whether the prosecutrix's mother was living or dead. The fact that she was dead was bound, in the nature of our people, and hence the jurors trying the case, to excite sympathy for the prosecutrix . . . . resulting in prejustice toward the defendant.

**Phenis v. State, 166 North Eastern Reporter (Ind.) 614 (1929)**

In this case there is a question of jurisdiction on appeal. The circuit court could not get jurisdiction from an appeal taken from a justice's finding of "not guilty" of bastardy, whereby the justice although having stated the finding had rendered no judgment.

**People v. Gill, 226 North Western Reporter (Mich.) 214 (1929)**

An interesting question in many states is whether proceedings under the Bastardy Act are in the nature of civil or of criminal proceedings. If they are criminal, the fact that the defendant had offered to settle the case out of court and that his offer had been rejected by the Superintendent of the Poor would be admitted although such an offer would seem to tend to incriminate the accused. If, on the other hand, they are civil proceedings such evidence is inadmissible because its "reception would be inimical to the policy of the law to encourage settlements, discourage litigation, and afford the individual fair opportunity to buy his peace." The court in this case rejected the evidence on the ground that there was nothing criminal in the proceeding. The finding of paternity is not in the nature of finding guilty, but gives rise to a civil obligation in relation to the support of the child.

**In re Cross, 148 South Eastern Reporter 456, 197 (N.C.) 334 (1929)**

The question here was as to the effect of a statute legitimating a child born out of wedlock on the relationship of the child to his mother's relations. The facts were that one T. B. Wallace, died leaving neither widow nor issue but a half-brother, three children of a deceased half-brother, and the son of a deceased sister, the plaintiff in this case, born out of wedlock in 1899. The mother and the reputed father of plaintiff had married. After the death of the mother, a statute was enacted legitimating the children of parents who had so intermarried. The question was whether plaintiff whose legitimate status was admitted by the court took as heir and next of kin of his deceased uncle, and it was held that he did not. In other words,

1. The act legitimating children born out of wedlock by the later marriage of the mother and reputed father being in derogation of the common law is to be strictly construed.

2. A child born out of wedlock, becoming legitimate because of the marriage of his mother to his reputed father, is *not* heir and next of kin of a deceased brother or sister of its mother or father.

**Brooks v. House, 122 Southern Reporter (La.) 844 (1929)**

In this case Annie Thomas House, the mother, died intestate, leaving neither legitimate children nor parents, but survived by her husband and two acknowledged illegitimate children born before her marriage. The Louisiana Code, Article 918, declares that illegitimate children inherit from the mother if she leaves no legitimate children. If there are neither children nor parents, the husband under Article 915 of the Code takes the whole community property, and other articles of the code were considered. But the authority of Article 918 was held sufficient to bestow the right on the children to the exclusion of the husband in the matter of the wife's half of the community. In other words,

1. An acknowledged illegitimate child of a wife, born before her marriage and not the child of her husband, inherits the wife's share of the community property to the exclusion of the husband.

### CHARITABLE TRUSTS

On the subject of charitable trusts fourteen decisions were rendered during the period under consideration in the following states: Colorado, Delaware, Kentucky, Louisiana, Massachusetts (2), Nebraska, Nevada, New Hampshire, New Jersey (2), Texas, Wisconsin, and federal.

**Drury v. Sleeper, 146 Atlantic Reporter (N.H.) 645 (1929)**

The facts presented in this case may be summarized briefly:

James Crawford died July 15, 1884, leaving to the town of Alexandria the income from the shares of railway stock to be expended first in keeping the cemetery of the town fenced and the hearsehouse in repair and then every four years the surplus over those needs to be applied to school uses in the district where Crawford lived. The trustees carried out the primary purpose; but in 1885 a town system of schools was established, and they were uncertain as to the application of the surplus income. Moreover, a nephew claimed that the trust had been forfeited. On petition of the trustees for instructions as to their rights and duties, the court ruled

*a*) That the gift was to the town as trustee in perpetuity.

*b*) The town trustees succeeded to the district trustees and this change would have been in the contemplation of the testator.

*c*) Since the wish of the testator could not be carried out exactly as he contemplated, the use should be as nearly what he had in mind as was practicable.

*d*) It was probable that his purpose was to benefit, not the taxpayer, but the boys and girls of school age of the district, and scholarships or aids

for them in other forms might come nearest to his general intent to further the educational interest of the section.

The following legal principles appear in the decision:

1. Under a charitable trust providing for the expenditure of income for school purposes in the district where the testator lived, the income should be paid to the town school board.
2. A testator creating a charitable trust by having income for school purposes is presumed to have contemplated legislative changes affecting the school system.
3. A bequest to town of income to keep a burying ground fenced and hearse-house in repair and for school purposes creates a charitable trust.
4. Under a bequest creating a charitable trust the property to go to a nephew in case the town did not accept and spend the income for four years, a failure to expend the surplus income for four years did not create a forfeiture since a portion of the trust was fulfilled.
5. When a charitable trust cannot be carried out in the exact mode prescribed, effect will be given the testator's general purpose.

**Hewitt v. Camden Co., 146 Atlantic Reporter (N.J.) 881, 7 N.J. Misc. R. 528 (1929)**

The interesting question in this case is whether the trust attached to a particular piece of land, or if the use of that land for the purposes of the trust became impossible, the same object could be sought in another location. In 1804, Joseph Lyon and others conveyed for educational purposes the land to trustees, who in 1856 conveyed to the Board of Education of Camden. They used the land for school purposes until 1927, when the education authorities entered into an agreement with the county authorities to convey the land for an extension of the courthouse facilities, as the population distribution had rendered school uses in that area impossible. Taking advantage of statutory authority existing since 1905,[1] the Board was enabled to collect from the county the sum of $330,000 for the land, which was, if allowed by the court, to be applied to the erection and maintenance of a school building in a more convenient section of the county. On submission of stipulated facts by the trustees and representatives of the testators' heirs, the plan proposed was approved by the court.

The interesting legal principles emerging from this decision are that

1. Charitable trusts include all gifts in trust for educational purposes.
2. Trusts for the establishment and support of free or public schools are favored.
3. A deed of land for school-building purposes is held to create a valid charitable trust.
4. A gift is a *public charity* when it confers a benefit on the public or a portion thereof or on an indefinite class of persons.

[1] P. L. New Jersey, 1905, p. 287 (3 Comp. St. New Jersey, 1910, pp. 4299, 4300, §§ 10–12).

5. Charitable trusts include all gifts in trust for religious purposes.
6. If the gift is so described as to show that it is a charitable trust, the name is immaterial.

**Cuthbert v. McNiell, 146 Atlantic Reporter (N.J.) 881 (1929)**

The facts in this case were as follows: Cuthbert in 1855 conveyed a deed for $100 certain real estate to the officers of Grace Church of Haddonfield, New Jersey, in trust for the purpose of having erected on it a chapel, schoolhouse, mission or parish house. Because of lack of other resources and also because other Episcopal churches had been built in the neighborhood, and in 1924, when the trustees applied for permission to sell the lot, heirs of the donor asked a decree of forfeiture. The property was, however, sold and the Court held that since the trust had once vested and was a public trust, and the organization was still in existence and might carry it out, there was no forfeiture. There are remedies for breach of trust which the court points out, but they do not include forfeiture of the titles.

The points decided were that

1. A charitable trust which has taken effect can never cease during period during which it was intended to subsist. Subsequent failure of purpose will not defeat a perpetual trust created for particular charitable purposes which had taken effect.
2. Property does not revert to the heirs of the donor because performance has been rendered impracticable by changing conditions.

**Sawyer v. Lamar, 18 South Western Reporter (2d) Ky. 971, 230 Ky. 168 (1929)**

(The questions raised in this case were similar to those raised in *Cuthbert* v. *McNiell*, in the foregoing, and were decided in accordance with the same principle.)

**In re Monaghan's Will, 226 North Western Reporter (Wis.) 306 (1929)**

Mary Monaghan, of Kenosha County, Wisconsin, died October 21, 1926, having bequeathed a portion of her estate to the Northwestern Loan and Trust Company as trustee, directing it to distribute the net income in its discretion to charities operating in the county that it considered needy and worthy of aid, leaving the amounts to be distributed each year to the trustees' discretion. This was to continue for 100 years when the proceeds at that time in the hands of the trustees should be distributed among the worthy charities. The will was probated in June, 1927, and the final decree entered asssigning the residuary estate, real and personal, to the Trust Company. In August, 1928, one Mary T. Farrell asked to have this paragraph in the will declared void for indefiniteness and that the persons entitled to receive should be designated. The Court ruled that the claim should have been presented at the time of the probate and entering of the decree, but also went into the merits of the case and ruled the trust a valid trust because the power is given the trustee to designate the particular purpose to be promoted.

The court held that

1. A testamentary trust giving property to a trustee to be distributed to such charities within the county as the trustee might deem needy and worthy, held not void for indefiniteness.
2. Gifts to charity are favored and a statute upholding trusts for charitable uses when power to designate is given the trustee should be liberally construed.

A similar position was taken by the Massachusetts Court in *V. Reilly* v. *McGowan*, 166 North Eastern Reporter 766 (1929). In that case, the testator left the property to his daughter to be distributed at her death "to such charitable uses and purposes as she should appoint."

**In re Forrester's Estate, 279 Pacific Reporter (Colo.) 721 (1929)**

The testator, Fred H. Forrester, died, leaving no wife, no parents, and neither brothers nor sisters nor nieces nor nephews, and after other bequests, left the balance amounting to about $145,000 to the Colorado State Bureau of Child and Animal Protection for the purpose of affording relief "to hungry, thirsty, abused and neglected cattle, horses, dogs and cats in Denver, and in Colorado at large, to use the income or the principal in prosecuting persons who neglect or abuse animals." He requested that his own dog be given good care for life and stipulated that none of the property should be used for human beings, especially not for the Denver Juvenile Court. He provided that if the Bureau should be legislated out of existence and superseded, the fund should go to its successor. The will, being attacked by collateral relatives of the testator, the court held that the bequest constituted a charitable trust and that the Bureau was able to take and execute that trust. It may be said then that

1. A bequest for hungry, abused, and neglected animals and for persecution of persons abusing and neglecting them was held valid as a public charity.
2. The Colorado State Bureau of Child and Animal Protection was held authorized to receive a bequest for hungry, abused, and neglected animals and for persecution of persons abusing and neglecting them.

Three of these fourteen cases had to do with questions of liability of a charitable institution for the negligence of its servants resulting in damage to a third person:

**Thibodaux v. Sisters of Charity of the Incarnate Word, 123 Southern Reporter (La. App.) 466 (1929)**

The facts in the case were that a newborn baby was negligently placed in a basket containing a scalding hot water bottle and badly burned. The institution which was incorporated cared for both pay and free patients but had no capital stock, paid no dividends, paid no taxes, and was therefore held to be a charitable institution. It was also shown that the nurse was competent and that due care had been exercised in employing her. The action for damages brought by the baby's father was therefore unsuccessful.

The special legal point decided in this case was that

A charitable institution is not liable for damage to third persons due to the negligence of a servant if care in the selection of the servant has been exercised.

**Baylor University v. Boyd, 18 South Western Reporter (2d) Texas 700 (1929)**

The same points were made in this case in which the facts were that a pay patient in a hospital administered as a branch of Baylor University, who was burned when an orderly so placed a hot water application on his wrist when he was under the influence of sedatives that he was injured, asked damages and was awarded $950 by the lower court. The upper court, however, reversed the decision on the ground that no negligence in the selection of the servant was proved, and the University was therefore not liable.

**Bruce v. Young Men's Christian Association, 277 Pacific Reporter (Nevada) 798 (1929)**

A boy fell from a swing in the Association gymnasium, in which one of the attachments had been negligently screwed so that the boy fell on his head and was fatally hurt. The court pointed out in the opinion rendered in the suit brought against the Association that there is an irreconcilable conflict in the decisions in the different states on the subject of the liability of charitable corporations for the negligence of servants resulting in damage to a third person, and based the decision in this case on the fact that one who accepts the services of either a public or a private charity enters into a relation which exempts his benefactor from liability for the negligence of its servants.

The points decided were

1. That the Young Men's Christian Association is a charitable organization does not of itself prevent recovery for the death of one using the gymnasium, but
2. The fact that the deceased voluntarily accepted the benefit of the institution prevented liability from attaching in the case of his injury.

In four other cases technical questions were raised, such as (1) the amount of delay that would constitute a failure and justify forfeiture under a bequest for the erection of a hospital, in this case $10,000 and certain grants of land in the city of Friend, Nebraska (*Allebach* v. *City of Friend*, 226 North Western Reporter [Neb.] 440 [1929]); (2) the application of the rule against perpetuities, when the execution of the trust was necessarily delayed (*Graff* v. *Wallace*, App. D.C. 32 F [2d] 960 [1929]); (3) the character of the trust obligation and its effect on the ability of the trustees to convey title, that is, if the trust is a condition subsequent, a good title cannot be conveyed, whereas if it is a covenant a perfectly good title can be conveyed (*Delaware Land & Development Co.* v. *First and Central Presbyterian Church of Wilmington*, 147 Atlantic Reporter [Del.] 165 [1929]); and (4) highly technical questions in ecclesiastical organization and control in which the social worker is less immediately interested (*Greek Orthodox Community* v. *Malicourtis*, 166 North Eastern Reporter [Mass.] 863 [1929]).

UNIVERSITY OF CHICAGO ANNA MAY SEXTON

## NOTES AND COMMENT

THE annual meeting of the American Association of Professional Schools of Social Work was held in Washington last December. There was an exceptionally large attendance, twenty-three of the twenty-six member schools being represented. The afternoon meeting was devoted to the report of the retiring secretary, Margaret Leal, of New York; a report on the practice of scholarship granting in the different schools, by G. P. Wyckoff, of Tulane University; and a general discussion of field work, which will be continued at the Boston meeting in June. The dinner meeting was devoted to the subject of "Training for Public Welfare Administration," with a paper by Edith Abbott, of the University of Chicago School of Social Service Administration, and a discussion led by Porter R. Lee, of the New York School of Social Work. The following officers were elected for the year 1930: president, Walter W. Pettit, of the New York School of Social Work; secretary-treasurer, Ruth Emerson, of the School of Social Service Administration, University of Chicago; and Henry M. Busch, of the School of Applied Social Science of Western Reserve University, as the new member of the Executive Committee, which also includes as hold-over members: G. P. Wyckoff, of the School of Social Work of Tulane University, and Mary C. Burnett, of Margaret Morrison College, Carnegie Institute of Technology.

THE next meeting of the National Conference of Social Work is always a subject of lively anticipation among social workers as the burdens of the winter work begin to fall off. This year everyone is looking forward to Boston, where the Conference will meet for the third time next June. New arrangements regarding the program and the days of meeting will be tried. The so-called "Kindred Groups" will meet June 4–7, and the Conference June 7–14 with the opening session Sunday evening. The evening programs announced in the February *Bulletin* include addresses on "The Economic Basis for Social Progress" by Dr. Wesley C. Mitchell, and "Is Social Work a Profession?" by Dr. Abram Flexner, who discussed that same question at the Baltimore meeting in 1915.

THE International Prison Congress will convene in Prague the twenty-fifth of next August. It will be recalled that the Congress was organized largely at the instigation of an American penologist, Dr. E. C.

Wines, and from the time of its first meeting in 1873 until 1910, sessions were held approximately every five years. The 1915 and the 1920 meetings were of course prevented by the World War, but American social workers will remember the 1925 meetings in London. It is hoped that the delegation from the United States to Prague may be both large and representative.

Preliminary announcements indicate that such topics will be treated as "Prevention of Crime," "Unification of the Fundamental Principles of Penal Law in the Different Countries," "The Indeterminate Sentence," "The Payment of Prisoners," "Recreation of Prisoners," "Professional and Scientific Training of the Prison Staff," "Cellular Confinement," "The Necessity of Knowing the Antecedents of Defendants," "Probation and Its Organization as between Different Countries," "International Co-operation for the Study of Changes in the Movement of Crime and their Causes," "Children's Courts and Their Auxiliary Service," "The Best Treatment of Juvenile Delinquents." It goes without saying that those who take part in the discussions are able and learned penologists and prison reformers. Those responsible for the organization of the Conference promise that in addition to the formal program there will be made available interesting excursions and entertainments in places of historic importance. For more than a thousand years Prague has been the center of the political and intellectual life of the Czech nation. Every century has left its traces in the form of historical monuments which mark stages, both of splendor and of misfortune, in the national existence. When the Hapsburgs fell from power, Prague became the capital of Czechoslovakia, a resurrected and enlarged state, with a population of 676,000. Prague Castle, which dates from the tenth century, is a picturesque combination of walls, towers, and moats. It is dominated by the cathedral pile of St. Vitus. At the foot of the hill stretches the old and picturesque quarter of Mala Strana, which is a storehouse of architectural and art treasures. The old Parliament Hall dates from 1560.

It will be possible to combine attendance at the Congress with inspection of the modern prison just completed near Berlin, and of other continental prisons; with visits to the International Exhibit at Brussels, the International Health Exposition at Dresden, and to the Passion Play at Oberammergau.

As to expenses, very reasonable estimates are being arranged; and the new American Commissioner, Mrs. H. Otto Wittpenn, 1 Newark Street, Hoboken, New Jersey, will be glad to supply information to those who contemplate including this in their summer travels.

THE publication of the report of the 1929 meetings of the American Prison Association[1] reminds the social work group of the 1930 conference, which will be the sixtieth meeting of the Association and will be held next October in Louisville, Kentucky, under the presidency of C. J. Swendson, chairman of the Minnesota State Board of Parole and member of the Minnesota Board of Control. The chairmen of committees are: (1) Jails, Dr. Hasting H. Hart, of the Russell Sage Foundation; (2) Probation, H. V. Bastin, superintendent of the Louisville and Jefferson County Children's Home, Anchorage, Kentucky; (3) Pardon and Parole, O. H. Close, superintendent of the Preston School of Industry, Waterman, California; (4) Criminal Law and Statistics, Mrs. Blanche LaDu, Minnesota State Board of Control; (5) Committee on Prevention, Dr. Maud Loeber, Louisiana State Board of Charities and Corrections; (6) Co-operation, A. L. Bowen, superintendent of charities, Illinois Department of Public Welfare; and (7) Women's Committee, Dr. Mary B. Harris, Federal Industrial Institution for Women, Alderson, West Virginia. It will be recalled that the Wardens' Association and the Chaplains' Association meet at the same time and place.

## SOCIAL SCIENCE RESEARCH COUNCIL REPORT

THE publication of the *Fifth Annual Report of the Social Science Research Council*,[2] which is said to exist "to further the scientific study of the activities of human beings," is an event of importance. During the past year the outstanding developments recorded include "the addition of a new series of fellowships for the training of social science personnel, close co-operation with the Federal Government in planning for important work, the redefinition of Council objectives, the appointment of a President and of a Permanent Secretary of the Council, and the opening of the Council's new headquarters offices."

The new report contains an interesting appeal to the philanthropy of the twentieth century to make use of the Council's resources:

> Faced by multiple possibilities for important work in this era in which the patient hand of the scientist is unlocking doors on every hand to more effective social living, the Social Science Research Council offers its facilities to those interested in contributing the resources necessary for such work. To those

[1] *Proceedings of the Fifty-ninth Annual Congress of the American Prison Association, Toronto, Canada, September 20th to 26th, 1929.* Pp. 404. (From the General Secretary, E. R. Cass, 135 East 15th Street, New York City.)

[2] *Fifth Annual Report, 1928–1929.* Pp. xiii+58. Robert S. Lynd, Secretary, 230 Park Avenue, New York City.

concerned with constructive social engineering one of the interesting aspects of contemporary philanthropy is the broadening of its traditional point of view. The increasing attendance of our people at colleges and universities is perhaps not unrelated to this phenomenon of the emergence of private donors with a scientific interest, desiring to furnish sinews with which science can press forward to attack some aspect of that specific problem. The "new philanthropy" is not charity in the usual sense but partakes of the curiosity of science itself, a curiosity tremendously intrigued by a basic lack of data and insight with which to rebuild social living at a given point. It partakes of the quality of science at another point, namely in patience, its willingness to rebuild slowly, perhaps at the cost of scrapping earlier ventures, leaving to those of other temper the more immediately appealing types of giving. During the past year the Council has assisted in the scientific development of such work at the request of interested donors. It has no hesitation in profferring to this widening group of persons the resources at its disposal for the patient study and elaboration of plans for the investigation of problems of importance alike to science and to human welfare. Owing to its non-commercial character, its continuous study of opportunities for strategic work, and to its ability to enlist the services of scientists in many fields in joint attack upon social problems, the Council offers this new school of philanthropists an effective medium through which to invest their funds for the development of social welfare.

The appointment by President Hoover of a Committee on "Social Trends" was made after the publication of the report. This Committee, which includes Professor Wesley C. Mitchell, chairman, Professors C. E. Merriam, W. F. Ogburn, Howard Odum, and Mr. Shelby Harrison, is undoubtedly one of the results of work with the federal government to which the report refers. The Council was also asked by the Secretary of the Interior to prepare a plan for an investigation of "Consumption According to Incomes: An Inquiry into the Economic and Social Well-being of the American People." Careful research during the summer of 1929 led to a plan which

contemplates an expansion and improvement upon earlier studies of the Cost of Living. It calls for a nation-wide survey of the manner in which the American people spend their money, according to income budgets, and of the meaning of these expenditures for their health and welfare. It is recommended that it be made a co-operative undertaking by the several departments of the Federal Government. It is proposed to contrast conditions in metropolitan districts, in representative small cities, in small towns and in country districts. Communities representing each of these types will be selected in each of the several broad regions determined upon. In the development of the plan particular attention was given to the need for objective criteria in relation to the standard of living.

For a "Survey of Health Insurance in the United States" in connection with the series of studies projected by the Committee on the Cost of Medical Care, the Council was asked to contribute the sum of $7,500 to match a similar amount from the Committee on the Cost of Medical Care.

Other research undertakings of special interest to the social welfare group include:

*A Study of the Criminal Insane.*—This research will be carried on by Dr. Benjamin Karpman, of St. Elizabeth's Hospital in Washington, who, as a member of the staff of St. Elizabeth's Hospital, has studied during the past ten years upward of three thousand cases.

*The Objective Recording of Psychoanalytic Data.*—According to the report "the Council was asked by a private donor to investigate the feasibility of setting up an investigation for the objective recording of psychoanalytic data. It welcomed this opportunity to assist in investigating the research possibilities in a difficult field as yet virgin to rigorously controlled scientific exploration. . . . . A plan has been devised for an exploratory year of investigation under an independently organized committee and the whole referred with the endorsement of the Council to the donor."

*Administration of Labor Laws.*—In view of the results of the exploratory first year of the "Study of the Administration of Labor Laws" by Dr. John B. Andrews of the American Association for Labor Legislation under the general supervision of Columbia University, additional appropriations were made for further work on this study in 1929 and in 1930.

*A Study of the Negro Family in the South.*—This research is to be carried on by Mr. Franklin E. Frazier under the supervision of Fisk University and a supervisory committee to be composed of Professor Charles S. Johnson of Fisk, chairman, and Professors Burgess and Park of Chicago.

*Influence of Heredity and Environment.*—The Council voted funds for a preliminary investigation looking toward a possible comparative study of the effect of heredity and environmental factors on the development of Negro and white children.

## THE MENTAL HYGIENE CONGRESS

A FORTHCOMING conference of importance is the First International Conference on Mental Hygiene, which will be held in Washington, May 5–10. A preliminary program has been issued containing the names of a large number of distinguished leaders in the movement from many of the thirty-five countries represented in the organization. The Congress appropriately follows last year's celebration of the end of the

first twenty years of the American Mental Hygiene Movement. It is entirely fitting that the man who was the founder of the movement, Mr. Clifford Whittingham Beers, should be one of the organizing secretaries of the new international movement. Programs may be obtained from the National Committee for Mental Hygiene (370 Seventh Avenue, New York).

The program of the Conference will include:

1. Three concurrent sessions on each of five mornings, which will constitute the chief meetings for discussion.

2. Evening meetings devoted to addresses of general interest, to be made by outstanding leaders in their fields.

3. Informal meetings of those who have a mutual interest in specific phases of mental hygiene.

4. Working committee meetings on social aspects of the mental hygiene program, whose reports will be presented to the Congress for official action.

It is also announced that the Congress will be unusual in one respect—it will be largely a congress of discussion, with no formal reading of papers. The following explanatory statement has been published:

> In order to provide more time for discussion, it has been decided that no papers will be read at the Congress. Incidentally, this will minimize the language difficulty which is always such a serious one in international congresses. Those who are invited to present communications have been asked to prepare a paper which would ordinarily take three-quarters of an hour to read—in other words, a paper of approximately five thousand words. This paper will be translated and printed in English, French, German, and probably Spanish in advance of the Congress. Copies in whichever of these languages is desired will be furnished in advance to those who have been invited to take part in the formal discussion, so that they may have ample opportunity to prepare their discussion on the basis of the speaker's communication.
>
> Copies of the papers will be available to all members of the Congress interested in a particular topic the day before that topic is to be discussed, so that in coming to the session all will be familiar with the material that is to form the basis of the discussion. At the session itself, the speaker whose communication forms the basis of the discussion will be allotted ten minutes in which to summarize succinctly the chief points of his paper. This summary may be given in any language, and will be translated from the rostrum. Formal discussion in ten and five-minute periods will then begin. At the end of the formal discussion, there will be a period for general discussion, each participant being allowed from one to two minutes.

A pre-Congress survey of the status of mental hygiene in all countries has been in progress. Authorities on the development of mental hygiene

in each country are sending to the administrative office of the Congress careful reports which, when analyzed, will furnish "the first comprehensive world-wide picture of the progress of the mental hygiene movement ever secured." The American Psychiatric Association and the American Association for the Study of the Feeble-minded will hold their 1930 annual meetings in conjunction with the Congress. More than fifty organizations having an interest in mental hygiene and related fields are participating in the Congress and have appointed representatives to serve on the Committee on Organization.

## CHILDREN'S BUREAUS IN GERMANY

CHILD welfare development in Germany since the war has been marked by the establishment of public services made necessary by the effects of the war on the condition in which the work of private social agencies was left. A national system of children's bureaus was established in Germany by a law of 1922, which went into effect in 1924. The bureaus supervise children placed outside their homes, hold the guardianship of children born out of wedlock, administer public aid to dependent minors, supervise neglected children, and share in probation work and in the enforcement of child labor laws. The first statistical review of the activities of the official children's bureaus of Germany was recently published in *Wirtschaft und Statistik*. The statistical report shows that on March 31, 1928, there were more than 1,200 children's bureaus in Germany outside Saxony, where this work is carried on by public relief agencies. On that date the bureaus had under supervision more than 544,000 children under fourteen years of age in foster-homes and were serving as legal guardians of 560,000 children, most of whom were born out of wedlock. Special supervision was being exercised over 66,000 children who though living with their parents were in danger of becoming neglected or delinquent. The bureaus were also doing probation work with 48,000 juvenile delinquents, in most cases in co-operation with private probation agencies.

## SOCIAL WORK IN ITALY

A RECENT number of *Difesa Sociale* contains an interesting plea by Professor Sante de Sanctis, of the University of Rome, for official recognition of social work in Italy. Many of the basic social services are already in existence, he points out, but are under diverse auspices and have never been brought together and given a definite status. He thinks the time is at hand to give social work the type of recognition that has long since been accorded to education. In this way social service could, in his opinion, be given an international aspect similar to that of the Red Cross.

It is evident that American methods of social work have inspired some of the recommendations of Professor De Sanctis. The social workers whose published material he quotes are all Americans—Mary Richmond, Mary Jarrett, L. A. Hulbert, Helen Myrick—and he concludes with a statement that, in addition to existing services, a co-ordinated Italian Social Service should include provision for psychiatric social service for hospitals, courts, and prisons. The references in this article to various international congresses and conventions indicate that the interchange of ideas that these meetings are designed to bring forth is in some measure being realized.

## UNEMPLOYMENT AND THE FAMILY SOCIETIES

THE business depression has brought the social workers of the country face to face with the misery of unemployment. This has, of course, been particularly true of the family welfare groups who have been valiantly struggling with a burden that has shown few signs of being lifted. Statistics from the family welfare societies in more than sixty cities were issued recently by the Family Welfare Association of America, the new name of the old society so well known to all social workers. This federation, representing 234 agencies, circulated a questionnaire on unemployment to its member agencies in one hundred cities. The return showed that 54 agencies had had a 100 per cent increase in expenditures for the immediate relief of distress among the families they were called on to help during January, 1930, as compared with January, 1929, and an increase of 20 per cent in relief expenditures for January of this year as compared with December, 1929.

Statistics from agencies in thirty-two cities reporting to the Family Welfare Association showed an increase of 200 per cent in the number of families in which "unemployment due to lack of work" was a factor in the family's need of help during January, 1930, as compared with the corresponding month of the previous year. In January, 1929, 32 agencies found that 7,300 of the families or single persons they were seeking to help or rehabilitate presented "unemployment due to lack of work"; by December, 1929, this number had risen to 17,000 and at the close of January, 1930, it had mounted to 21,600.

These figures related only to "families in which unemployment was due to lack of work rather than to the inability of the persons concerned to engage in work." The Association's report emphasized the fact that the problem confronting the family welfare societies of the entire country at present is not so much that of assisting "unemployables" as of "helping

families whose difficulties grow out of the inability of able-bodied, willing, and perfectly competent persons to secure work."

The number of families under the care of 61 welfare agencies, including the municipal departments of welfare in Detroit and Charleston, South Carolina, increased 42 per cent in January of this year over January of last year. More than 71,000 families or single persons were under the care of these 61 agencies during January, 1930, as against 50,000 in January of last year and 62,000 during December of last year. A number of the societies reported that the number of families under their care at present does not give a true picture of the unemployment situation in their respective communities since many dependent families whose difficulties are only those of unemployment are being referred to the tax-supported public departments.

In general these figures give some indication of the strain endured by the workers of those societies who are, as it were, "innocent bystanders" forced to witness the misery that unemployment brings in its wake and able to do relatively little to mitigate its serious consequences.

## EMPLOYING THE UNEMPLOYED

THE British general election of last spring left the world wondering how the Labour party would proceed to its appointed task of showing that the unemployment crisis could be met. The fact that after nine months of Labour government, unemployment has actually increased, shows, of course, not that Labour is unwilling to help the unemployed but that it finds there are enormous difficulties involved in any attempt to deal in a vigorous way with this crucial social problem. In an interesting editorial in its mid-February number, the *New Statesman*, friend of "Labour," discusses the rumors that a government "split" is impending as a result of the fact that unemployment is getting worse and very little is being done about it.

The *New Statesman* summarizes briefly the three schools of thought in the Labour party on this question: (1) those who believe that large-scale relief works are too expensive and uneconomic and that the state therefore must confine itself largely to the payment of "doles" until long-time measures of industrial organization have had time to take effect: (2) those who hold that the dole policy should be extended, unemployment benefits increased, the school-leaving age raised with handsome maintenance allowances, family allowances provided, the older workers in industry pensioned off at a living rate in order to make room for the younger unemployed—"in short, both to reduce unemployment by removing large

classes from the category of 'employables,' and to distribute more purchasing power to the workers by means of drastic taxation of the rich, in the hope that this may so increase demand as to bring about the revival of industry"; (3) finally, those who think that the unemployed must be employed immediately by larger-scale emergency schemes of work. This group believe "no measures for the long-run improvement of industrial efficiency" will do if in the meantime the unemployed grow in numbers and suffer "all the deteriorating consequences of prolonged inactivity and despair."

The actual pre-election promises of the Labour party cautiously included an Unemployment Insurance Act amendment to "afford more generous maintenance to the unemployed" and removal of the disqualifications which in the eyes of Labour deprived them of benefits to which they had a just claim. On the latter point, the procedure was typically British—the appointment of an investigating committee.

The report of the committee (usually referred to in England as the "Morris Committee" because Sir Harold Morris, K.C., served as chairman) on "Procedure and Evidence on the Determination of Claims for Unemployment Insurance Benefit,"[1] is available and is interesting reading. Labour criticism had centered on the fourth statutory condition, which required a claimant for unemployment benefit to prove that he was "genuinely seeking work but unable to obtain suitable employment"; and this objectionable clause "genuinely seeking work" is abolished in the new Unemployment Insurance Act, which provides as the principal disqualification for benefit that the applicant has been offered a job and refused it.

This new Unemployment Amendment, which finally received the Royal Assent on February 6, made certain changes in the direction of greater liberality for the worker and his family which were in line with election promises, including an increase of allowances to dependents and better benefits for juveniles and young people up to twenty-one.

But more generous doles alone cannot meet the situation. Mr. Thomas, the minister chiefly responsible for making plans to provide for the unemployed, and his colleagues may be wisely cautious about employing the unemployed; but their failure to act has bitterly disillusioned many of their followers, and their disappointment will not be soothed by larger doles.

[1] This committee was appointed by Minister of Labour Margaret Bondfield. Both the Report and the Minutes of Evidence have now been published (H. M. Stationery Office, *Report*, Cmd. 3415, pp. 60; *Minutes of Evidence*, pp. 302).

## A *CORPUS JURIS* FOR SOCIAL WORKERS

ADMINISTRATIVE decisions in an important field where human rights are involved ought to be published. In America we have long published the decisions of the Interstate Commerce Commission, but the decisions of the committee which reviews for the Secretary of Labor the immigration cases involving exclusion or expulsion are never issued in printed form. The British Ministry of Labour has just set a splendid example in publishing the corpus of printed Decisions given by the Umpire under the National Insurance and Unemployment Insurance Acts and the Out-of-Work Donation Scheme.[1] These decisions have been regularly published before, but with the successive legislative amendments, more and more of the older decisions have been either irrelevant or untrustworthy as precedents to current practice. The Ministry of Labour has now republished in a more convenient form those of the decisions which have any important bearing on statutory provisions as they have been amended by Parliament. A volume of a thousand pages includes all those decisions that contain "dicta" by the Umpire on special aspects of the surviving law or that lay down general principles which make them of continuing interest, together with a liberal selection of decisions exemplifying such principles or illustrative generally of existing statutory provisions relating to unemployment benefit. The total number of decisions thus collected, approximately 1,400, will form a sufficiently comprehensive body of case law for the guidance of those interested in claims to benefit under the Acts as amended by the Act of 1927.

This British volume of administrative decisions is so admirable that it is to be hoped that some time an American Secretary of Labor may see fit to issue the corpus of decisions given in the cases of aliens whose right to enter or to remain in the country is on trial. These are an important collection of administrative decisions that ought to be in the hands of those who are interested in the rights of unfortunate people.

## THE FIFTEENTH POPULATION CENSUS

ARRANGEMENTS for the Fifteenth Census are going forward with plans for the enumeration to be made on, or as of, April 1, 1930. The Fourteenth Census was as of the first of January; and, although changes in time and method of enumeration are a matter of regret, there is no question that an early spring census-taking is preferable to mid-winter.

[1] *Selected Decisions Given by the Umpire prior to April 10, 1928, respecting Claims to Benefit and Donation* (Ministry of Labour. U.I. Code 8).

The Fifteenth Census schedule is like the schedules of preceding census enumerations in its general form and in the selection of questions to be asked.

A new and very important question asks for the "age at first marriage." The returns to this question will show the relative age at marriage of persons in different racial and economic groups, and the size of families.

Unemployment, which was dropped in 1920, appears again in 1930 as a single question on the general schedule following the questions relating to occupation and industry with the inquiry "whether actually at work yesterday (or the last regular working day)" and with a special supplementary schedule to be used for those reporting unemployment.

This was supported by a Committee of the American Statistical Association in spite of the fact that results of questionable value have been secured on this subject during the previous enumerations and in spite of the heavy expense involved. Social workers will look doubtfully at the list of fifteen items on the supplementary schedule on this subject to be filled in by enumerators who in a large proportion of cases will not interview the unemployed person himself but will secure that information from someone else in the home. There is, of course, no question about the need of data on this subject, but whether valuable results can be secured by including a heavy schedule of this sort as part of the decennial population enumeration is another matter. Even skilled investigators would not find it easy to secure proper answers to such questions for statistical tabulation. For example, the distinction to be made between the unemployed person who "has a job" and the unemployed person who "has no job of any kind" will be full of difficulties to the hastily assembled and inexperienced enumerators to whom this work will be intrusted. Then there are Questions 7, 8, 9, and 10, which deal with the unemployed person who has a job, and are also difficult for inexperienced enumerators to deal with competently:

IF THIS PERSON HAS A JOB

7. How many weeks since he has worked on that job?

8. Why was he not at work yesterday? (Or in case yesterday was not a regular working day, why did he not work on the last regular working day?) For example, *sickness, was laid off, voluntary lay-off, bad weather, lack of materials, strike,* etc.

9. Does he lose a day's pay by not being at work? *Yes or No.*

10. How many days did he work last week?

It is easy to understand why the census-taker is to be paid 50 per cent as much (on the piece-work basis) for the work on the unemployment

schedule as for the 32 items on the regular schedule. And add to Questions 7–10 the following—Questions 12, 13, 14, and 15:

IF THIS PERSON HAS NO JOB OF ANY KIND

12. Is he able to work? *Yes or No.*
13. Is he looking for a job? *Yes or No.*
14. For how many weeks has he been without a job?
15. Reason for being out of a job (or for losing his last job), as *plant closed down, sickness, off season, job completed, machines introduced, strike, etc.*

In view of the necessity of keeping a census schedule to lowest terms if accurate results are to be secured, and in view of the type of enumerators who take the census, these additional questions seem extremely hazardous.

Two other new questions on the general schedule are the following items included under "Home Data":

8. Value of home, *if owned*, or monthly rental, *if rented.*
9. Radio set.

The first of these questions, in so far as it deals with rent, will probably yield reasonably accurate and extremely useful results. Questions have been raised as to how satisfactory the returns to the first half of the question may be.

In spite of its classification, Question 9 is not really for "home data" purposes but to make it possible to estimate the potential radio audiences more accurately. While the results secured may be interesting, there are many other questions that might have been included that seem of greater importance.

For example, one important question of special interest to social workers that is still omitted from our American population census is a question relating to housing conditions. The most practical question on this subject is probably the one that has appeared on the English census schedule for forty years: "Number of rooms in this dwelling."[1] This very important inquiry is simple, definite, and, as English experience has proved, entirely practicable. It would yield data showing the number of persons in relation to the number of rooms that can be secured in no other way. If this question could have followed the rent inquiry, it would have been possible to classify the rent returns according to the size of the dwellings occupied.

[1] See "The English Census of 1921," by E. Abbott, *Journal of Political Economy*, XXX, 839.

The mother-tongue questions which have been included in the last two census schedules and which were threatened with elimination when the present census schedule was prepared were finally retained in so far as they relate to the foreign-born person himself. The questions regarding the "father's mother-tongue" and "mother's mother-tongue" were withdrawn. The Foreign Language Information Service conducted a vigorous campaign for the retention of the mother-tongue question since only in this way can the representation of minority groups in different European countries be counted. That is, we still need to know the number of Croatians in the United States instead of merely the number of Jugo-Slavs, the number of Slovaks instead of merely Czechoslovaks, the number of Germans as distinguished from the number of persons born in the political divisions of Germany and Austria, the number of Greeks whether born in Greece or Turkey, and so on.

Plans for the English Census which comes a year later than ours are also going forward. The machinery through which a census is arranged for England and Wales includes an Order in Council and a Parliamentary vote of the necessary money, which is asked by the Minister of Health, who acts on behalf of the Registrar General. It is very probable that the long-talked-of quinquennial census will be installed in England as a result of the derating scheme before the end of another decade, but the coming census is not expected to be very different from the last one. The quinquennial system should provide the minimum material needed for local government purposes. In several Continental countries it is customary to have a "heavy" decennial and a "light" quinquennial census; but even if this plan is adopted in England before 1936, the next census (1931) would probably not be affected.

## PARLIAMENT AND CAPITAL PUNISHMENT

THE setting up of a Select Committee on Capital Punishment by the House of Commons following the debates on this subject last fall was an event of importance to the whole English-speaking world, and especially to the United States, where so many capital sentences are still executed every year.

A correspondent of the *New Republic* recently called attention to the fact that Texas has enacted a law permitting the execution of bank robbers and actually sentenced a man to be electrocuted in January. Happily, the carrying out of the sentence was postponed, but sentence is still hanging over him. This man "was convicted and sentenced to death for a bank robbery on December 13, 1927, where no shots were fired, no one was killed, and no money was lost. A Massachusetts woman saw an item in a

Boston paper and aroused an organization to employ a Texas lawyer, thus obtaining two stays of execution." The correspondent of the *New Republic* notes that criminals may be legally executed in seven states for burglary, in seventeen states for rape, in two states for train wrecking, in six states for arson, and in ten states for treason, though no executions have been inflicted for the last offense.

The new committee of the House of Commons held its first public meeting on January 29 of the present year, and the first witnesses were Sir John Anderson and Sir Ernley Blackwell. The London *Times* gave a very useful statement summarizing the memorandum presented by these important officials of the British Home Office. A historical survey was given showing that since 1838, except in one case of high treason that belonged to the war period, the sentence of death had only been executed for murder.

The memorandum referred to the number of wives who in a single year sought the protection of the courts on the ground of cruelty by their husbands, and pointed out that in one year

> five men were sentenced to death for the murder of wives or women with whom they were cohabiting. We know that these five men were not deterred, but we do not know how many of the thousands of others may have been deterred by fear of the death penalty from murdering the women whom they were persistently assaulting and ill-treating.

The memorandum continued:

> As regards the murders of women with whom the murderers are living in close association the records of the Courts week by week afford the evidence of the immense number of human beings who are living together on precisely the same terms as those which have been found to exist in cases where murder has resulted.

The *Times* report continued:

> From 1905 to 1929, 42 men were convicted of the murders of their sweethearts, the average age of the prisoners being 23½ years. In 20 of these cases the juries recommended the prisoners to mercy, and in the remaining cases they made no such recommendation. It appeared, therefore, that in 22 of these cases the jury were prepared, so far as they were concerned, to see the law take its course in accordance with their verdict. The same was true in the case of other murders.

It was suggested that the only alternative to capital punishment in England would be detention in prison, and this is regarded as a dreadful sentence whose severity was less obvious than that of a death sentence but presented a choice between two evils. "The question would have to be

considered whether some murderers would be required to serve real life sentences and not merely nominal life sentences. If the capital sentence were abolished there would probably be in about 20 years another 300 persons convicted of murder and serving long sentences. Difficulties might be substantial."

The witnesses did not express any dogmatic view as to the deterrent effect of capital punishment in general. The *Times* report indicates, however, that they thought there was ground for believing that the fact that professional burglars and criminals did not normally carry lethal weapons in England was directly attributable to fear of the gallows. Americans will, of course, question this statement since capital punishment has not been able to prevent the carrying of weapons on a stupendous scale in the United States. The memorandum pointed out that the risks to which the officers of the law were exposed in the discharge of their duties would probably be increased if capital punishment were abolished. Here again Americans will point out that the law officers of this country have had a mortality rate in spite of capital punishment that would be considered shocking in England.

Finally, the memorandum suggested that no proposal for the abolition of capital punishment ought to be adopted "unless Parliament were satisfied that it was supported by the great body of public opinion. It was suggested that the test of public opinion was to be sought rather in the state of feeling immediately after the commission of some heinous crime than in the more passive moods that prevailed at other times."

That capital punishment was regarded by the Home Office officials as a probable safeguard against lynch law will also be interesting to Americans, since lynching has, of course, prevailed to an incredible extent in modern times in our southern states in spite of the fact that they were fortified by capital punishment provisions. Americans will certainly be interested in the statement in the memorandum that it is

> important that public sentiment should not merely accept abolition in the abstract, but should be strong enough to overbear the passions which may be excited by contemplation of the harrowing details of some brutal outrage. If this test were not satisfied the country might well be exposed for the first time in its history to all the horrors of lynch law. There has for many years been little opportunity of testing public opinion in this way. Some indication of the existence of a strong and widespread feeling in favour of the continuance of the death penalty has, however, been afforded in cases where prisoners guilty of what appeared to be heinous murders have for one reason or another escaped execution.

## CALIFORNIA AND THE NEEDY AGED

IN MANY respects California and New York have reached the same conclusions regarding old age pensions. The Department of Social Welfare of California was requested by the legislature of 1927 to make a careful study of the old age problem in California and the manner in which it was being met by the various counties. A report of the study was published and presented to the last legislature.[1] The act passed in 1929 as a result of the departmental investigation provides for a system of "state aid to the needy aged" somewhat similar in administration to the law under which state aid is given in California to orphans, half-orphans, and other dependent children.

California, like New York, refused to provide adequate pension grants to men and women merely because they are old. "The care and relief of aged persons in need" is declared to be "a special matter of state concern," and the act provides that

> the amount of aid to which any such person shall be entitled shall be fixed with due regard to the condition existing in each case, but in no case shall it be an amount which, when added to the income of the applicant from all other sources, including income from property as computed under the terms of this act, shall exceed a total of one dollar per day."

Of further interest is the fact that California provides a "division of state aid to the needy aged" in the State Department of Social Welfare. City and county boards of supervisors are charged with the duty of providing under the supervision of the state department "for the needy aged citizens, to the end that they may receive suitable care in their old age and that there may be, throughout the state, a uniform standard of record and method of treatment of aged persons based upon their individual needs and circumstances." The act further enjoins those charged with administering the act to "follow the policy of giving the aid provided for under this act to each and every applicant in his own or in some other suitable home, in preference to placing him in an institution."

A weakness of the California law as compared with New York is that grants may be made to those who are living in private homes for the aged. Senator Mastick's New York proposal carefully provides that old age "relief" shall only be given to a person who "is not at the time an inmate of any public or private home for the aged, or any public home, or in any public or private institution of a custodial correctional or cura-

[1] See this *Review*, III, 156.

tive character, except in the case of temporary medical or surgical care in a hospital."

The California act contains a provision that carefully excludes anyone who is "an inmate of any prison, jail, infirmary, insane asylum or any reform or correctional institution." But California allows "relief to the needy aged" who are in private institutions for the aged, although it carefully excludes those who are in county infirmaries.

Social workers, in general, whether they approve the precise terms of the New York bill or not, will be in favor of New York as against California in this matter. They will be strongly opposed to granting pensions to persons already receiving institutional care, whether in public or private institutions. The old person who accepts care in an old people's home or an almshouse and who wishes to go on staying in such an institution ought not to receive a pension. If he remains in an old people's home and receives a pension, it is practically certain that the pension will be taken by the institution. Such a pension grant, therefore, is only a subsidy to private institutions for the care of the aged. The social work group, looking over the developing program of public social services, will not be willing to have any of this money earmarked for subsidies to old people's homes. Whatever disagreement there may be as to which need comes first in making a program for social welfare, there will be no disagreement as to the fact that a system of subsidizing homes for the aged does not belong there while our public funds for social services are still so limited.

## OLD AGE PENSIONS AND SOCIAL WELFARE PROGRAMS

THE message of the governor of New York to the legislature on January 1, urging provision for old age as a "crying need for wise and immediate legislative action," was a significant one:

> Selfish and indifferent people should no longer be favored by exemption from the burden we now impose on the generous and charitable in providing for the care of those unable to support themselves in their old age. This is a common duty of all citizens and should be borne, under a wise and systematic plan, by all taxpayers alike.

The New York State Legislative Commission on Old Age, which was appointed last year with Senator Mastick as chairman, reported to the legislature last February, recommending the establishment of a state and county system of pensions for persons seventy years of age or more in need of assistance. With the report the Commission presented four bills to carry out this recommendation, one of which carries an immediate appropriation of $100,000 to set up a division of old age security in the

State Department of Welfare. With regard to these bills, Senator Mastick is reported to have said:

> I feel that by the introduction of these bills a revolutionary step has been taken in the policy of the state in regard to the discharge of its responsibility toward the needy aged.
>
> We have had in mind constantly the desirability of extending this assistance, not in the form of charity administered in a humiliating manner in institutions but in the form of aid extended in the home where the recipient will remain in contact and in association with his or her loved ones. The Commission feels that it has here a sound plan which will stand the test both of the courts and of public opinion.

The Mastick plan carried with it certain definite principles: (1) The act is not called an "Old Age Pension Act" but "An Act To Amend the Public Welfare Law." (2) The provision proposed is called "security against old age want," and the public grant to be provided is referred to as "relief" and not as "a pension." (3) The proposed old age relief should go only to those in need. While no "means limit" is fixed, the bill provides that "relief" shall be given only to a person who "is unable to support himself, either in whole or in part; and has no children or other person able to support him and responsible under the provisions of this chapter for his support." (4) Instead of a flat grant of any fixed amount, the act provides under the title "Relief To Be Given" that it shall be the duty of public welfare officials "to provide adequately for those entitled to relief."

> The amount and nature of the relief which any such person shall receive, and the manner of providing it, shall be fixed with due regard to the conditions existing in each case. It may include among other things, medical and surgical care and nursing. The relief granted under this article shall whenever practicable be provided for the recipient in his own or some other suitable family home. The amount and nature and method of providing such relief shall be determined by the public welfare official, in accordance with the rules and regulations made by the state department of social welfare.

Under the American plan, old age pensions and mothers' or widows' pensions, which are grants only to those in need, are not different in principle from outdoor relief. The grant or pension is taken from tax collected funds and given by statutory requirement to those in need. This was true also of the non-contributory old age pension system of England, with this difference—the means limit and the items included in calculating means were somewhat more rigidly fixed.

By the American plan, two purposes are served: (1) The people in

need are taken care of by a grant that is called by a name that has no associations with the old deterrent and degrading method of assistance known as "outdoor relief" and with the crude and harsh methods of county overseers before the days of modern professional work. There is the same reason for calling these grants "pensions" instead of relief that there is for changing the name of the old pauper or poor law to the public welfare law. (2) On the other hand, by granting only to those in need, public funds available for social welfare purposes are conserved for the most exigent demands of the whole welfare program.

Those interested in public welfare programs differ from the old age security group in one important respect. They are (most of them) just as eager to have the aged men and women taken care of as any group can possibly be; but they see not only the needs of the aged, they see the large numbers of people of all sorts who need better care. They know, for example, that mothers' pensions are as yet granted on an adequate basis only to a small fraction of those in need; they know that the fund for foster-home care for children is either inadequate or non-existent in something like 99.9 per cent of the local administrative areas of this country; they know that the service rendered to children by the juvenile courts—proper detention care, adequate probation service, vocational supervision—are not provided for most of the children of any state; they know that probation service for adults is so inadequate as to be almost non-existent; they know that foster-home care should be extended from dependent children to cases of early delinquency and that our present method of committing young boys and girls to so-called reformatories is a cruelly wasteful method of providing for them; they know of the great need of developing social services for children in connection with public schools—evening play centers, use of the school plant for recreation purposes during holidays, adequate vacation schools. Knowing all these needs, social workers cannot become propagandists for old age pensions to be given on any generous scale to people who are not in need. Much as we should like the old to be comfortably provided for, social workers know that it is impossible to get more than a limited amount of money from any legislative body for social service purposes in any one year. The needs of the aged are carefully weighed against all the social needs that are so obvious to competent members of the professional social welfare group. They must, therefore, acquiesce in a plan that provides only for those who are in need, and they must agree to a severe limitation on the amount granted. The social worker agrees with the old age pension propagandists that better care is needed and that everything should be done to make this

new grant as different as possible in name as well as in fact from the old outdoor relief system. Changing the name is a great step forward. It means that the new grants shall not be given in a deterrent and therefore humiliating way. Social welfare workers agree absolutely that everything possible should be done to make those who receive the grants under the new system self-respecting persons in a dignified relation to public officials.

One question should, however, be raised regarding the pension as a grant to those in need. Should the old pauper law principle of the responsibility of children for the support of parents be invoked? It is one thing to say that pensions should not be given to men and women who have means, but is it not quite another thing to refuse to give them to those whose children have some means? The principle of "chargeability" is one of the hated and hateful features of the old poor law system.

# BOOK REVIEWS

*The Social Service Exchange in Chicago* (Social Service Monographs, No. 8). By ELIZABETH A. HUGHES and FRANCELIA STUENKEL. Chicago: University of Chicago Press, 1929. Pp. xiii+115. $1.50.

I do not think the authors will quarrel with us for commencing with a quotation from the pages of their work:

> Since the Exchange is virtually an index or catalogue of the case histories of each of its member-agencies and the means through which an exchange of information becomes possible between agencies acquainted with the same families or individuals, it is logical to look to the member-agencies for the funds to maintain the Exchange in operation. . . . . The Exchange of today is not looked upon as a place where one registers the names of needy families but rather as the place where inquiry can be made in order to find out what has already been done or what is even now being tried out by social agencies to help specific cases of want or maladjustment.

The foregoing quotation is a fresh and valuable statement made from the standpoint of clear presentment. Add to this the insistence on a positive instead of a negative way of presenting the service, and you have the recipe from which these valuable chapters have been arranged. Much that blocks the path to the index is due to the shadow of the old negative image, that prejudice which is the product of long-standing misdirection in publicity. The quotation cited is worthy of the word epoch-making. Is it reasonable to expect that it will make an epoch? The answer to this question lies with the Councils of Social Agencies. The first necessity is that Council executives should read this study and face the conditions which it reveals. Well may the editor say in the Introduction, "The Exchange is in a position among social agencies that is unique and far from being generally understood." It is therefore most encouraging to find the Graduate School of Social Service Administration recognizing the need for interpreting this essential service.

The introductory chapter supplies the necessary outline of the period in the history of organized charity when the service was born. Within its limits the old registration bureau, in the various stages of its development, was a complete answer to duplication prevention. This negative stage was characteristic of the service wherever it existed and as late as 1904 was in danger of losing itself in sterility.

Wherever machinery is discussed there must be a resourceful discovery of compensations. Among the small group of Exchange executives who set out to see what could be done with the registration bureau was Miss Helen Crittenden.

In 1910, then, registration was already coming to be looked at primarily as a co-ordinating factor in community social service which promoted teamwork and co-operation among specialized social agencies for the purpose of giving better and more adequate service to families or individuals in need of help; secondarily, as a means of preventing duplicate effort among social agencies, relief or other; and, more remotely still, as an instrument for detecting frauds and imposition. This readjustment of the values in the service came about largely during the period when Miss Helen Crittenden was in charge of registration and was, perhaps, mainly due to her interpretation of the possibilities in registration and her ability to communicate her vision to others and enlist their enthusiasm and support. In this period of the growth and development of Chicago's Social Service Exchange and the definition of the registration service in this community, 1909–21, hers was the chief influence.

Miss Crittenden sought to get social workers to understand that "it is not to deny the need of the client but to increase the benefits to him that we are demanding some medium by which two agencies may know when they are interested in the same family situation."

The chapter ends with this well-deserved tribute to the United Charities: "Without the protection and financial aid which the Social Service Registration Bureau received from the United Charities at this time, however, it could have afforded to make little if any demonstration of the nature of its service to Chicago's social agencies."

The second chapter discusses the problems of the Exchange as a part of the Chicago Council of Social Agencies. "From the administrative standpoint it is probably agreed that the Social Service Exchange which performs a joint service for Social Agencies in Chicago is rightly allocated to the Chicago Council of Social Agencies, 'an association of the major welfare organizations of Chicago for the economical and efficient performance of joint services.' " That the development of the Social Service Exchange or Central Index has produced a new situation with peculiar demands on our agencies is clearly pointed out by the authors in this significant sentence. "The Exchange was to be looked upon by its members as virtually a branch of the service of each member-agency or organization." This point of view recognizes that the Index long ago delivered the agencies from isolation. In these days the agencies with all their diversities unite to form one pattern, the work of which is to give elevation to human life.

The closeness of the connection with the Council was emphasized by the name, "The Social Service Exchange of the Chicago Council of Social Agencies." The Committee in control of the Exchange became a standing committee of the Council. Its membership increased to not more than fifteen persons to be appointed by the president of the Council but subject to the approval of the Council's Executive Committee. At least two-thirds of the appointments must be from representatives of member-agencies of the Exchange.

"The question of the source of support has been and is a question to which no satisfactory reply has been found." The present situation is summed up as follows:

> The soundness of the principle that the social agencies of a community should be the source of support for the Social Service Exchange is one not easily challenged. . . . The best method of determining the amount of support a member-agency should give the Social Service Exchange in Chicago demands further study. Of the two methods in use under the Council the lump sum contribution plan appears at present to possess certain advantages and to avoid certain dangers attached to the levy of a per capita charge for each clearing, the other method employed.

The reader is referred to Appendix C, which offers a statement of the amount and the sources of income since 1913.

There is no simple arithmetical method or formula by which the value of the central indexing of records to each and every type of user can be estimated and set down. There is, so to speak, no power-coefficient common to all. The question of relative value, in detail, remains unsolved in this study. Our Exchanges count incoming and outgoing messages; but this does not constitute measurement. Their content, rich in variety, constitutes our problem. An insistence on estimating volume for purposes of comparison and taxing is not a hopeful response to the fact that the development of agency relationships and standards is not dependent on the repetition of a simple standardized routine made to fit only the most negative stage of Index service. The editor's comment follows, "Certainly the great weight of practice is in the direction of treating the costs as an item in a community program to be met by the agency responsible for leadership and standardization in the entire community."

The authors recognize that "the Exchange has been developed primarily to meet the needs of case-working agencies." The chapter on "Practice" will repay careful study. It is interesting to note that the authors seem to recognize the value of a self-audit such as every city needs and will continue to need. Total harmony is a difficult goal because the existing relationships are not so simple as might appear in the definition of functions. This chapter presents a painstaking discussion of the characteristics, practices, and requirements of the agencies, and their case histories. The comment of the chief probation officer as to the value of the Exchange to the juvenile court is worth circulating. He said, "The Exchange means that treatment can be based on fact rather than guess and in so far is a time, labor and money-saver to the Court." "The Court," the authors say, "is using the Exchange intelligently, with a fine appreciation of the service, it would seem, and benefiting by the exchange of information possible between members, the while other agencies are helped by the Court's co-operation."

The usefulness of the notification slips is open to question, and the authors believe this service needs further study. The reviewer is of the opinion that they constitute a waste except when used to educate new groups to make use of one another's records.

The chapter carries a challenge to Council executives as well as to all students of agency relationships.

> The practice of the members of the Social Service Exchange compasses both the fullest use possible and the least use that could be made and still be of value in promot-

ing community co-operation in social work. The Exchange service has been curtailed or but partially utilized as a rule in adapting it to the agency that does not do case work or to the agency performing another function which it considers its major duty in addition to social service. The interviews with the executives in charge of the 19 agencies studied show an understanding appreciation of the purpose and use of a Social Service Exchange and an intelligent application of the underlying principle and theory of Exchange service to the work of the agencies in the community. The practice as revealed by the reading of case records more often corroborates the practice as outlined by the directors than not. When examination of the records fails to do this, it is as likely due to shortcomings in record-keeping as to failure in routine performance of work.

The reviewer is of the opinion that as a department of the Council of Social Agencies the Central Index will furnish a "critical apparatus for self-audit" based on relationships as they exist today, rather than on the traditions of any group. What we are after is a plan of co-operation in which the activities of the agencies shall be so conditioned and combined that the client will get properly co-ordinated treatment for his *Social Health* in all its aspects—economic, mental, physical, and spiritual. Such a plan will of necessity make greater demands on our case workers as the Index develops in the Councils. In addition, through the use of the Index for research the Councils will study "to utilize every level and extent of agency activity in the right place and degree for the calling into full action of all the rest."

A close study of chapter iii will convince the mature reader that the situation as it exists today in case work would not be intelligible without the Central Index.

Chapter iv gives an account of the status of the service in other communities. As the authors say,

To understand why these differences have come about would necessitate an intimate knowledge of the rise and development of each Exchange. "One extreme is represented by San Jose where the Exchange is in the same office as the Community Chest, considered a function of the office and completely provided for in the Chests' office budget. The other extreme is represented by Baltimore or Cleveland where the Exchange is one member-agency of the Community Fund or Welfare Federation."

In conclusion, it may again be pointed out that communities of all sizes are facing very much the same problems, differing perhaps chiefly in the volume of the load they carry and the complexity of the organization for applying the appropriate remedy to a particular manifestation of distress. As the possibilities of adequate treatment seem within reach, obstacles, especially in what might be called the mechanical arrangements for co-operation, become more irksome. Certainly in connection with such questions as these, pooling experience, sharing conclusions, and the development of opportunities for what Miss Follett characterizes as "constructive experience" become of very great importance.

This book marks a definite stage in the history of social work. The authors have presented us with a notable work for which they may claim the congratulations and thanks of every student of social service administration.

LAURA G. WOODBERRY

BOSTON SOCIAL SERVICE INDEX

*The Child in Primitive Society.* By NATHAN MILLER. New York: Brentano's, 1928. Pp. v+307. $3.00.

Miller's purpose "is not to inquire into the inner processes of learning but to examine the social milieu as it impinges on the child—in other words, the customs and institutions which emerge as the educational systems of society later in the course of development." The purpose is to study "the fashioning of the child's social existence by these social forces." By this means he hopes to demonstrate the "mechanism of social heredity," his main consideration being the personal basis of this mechanism.

The reader is favored with a thorough digest of the anthropologic literature on this subject. There is complete oblivion of modern psychoanalytic contributions to the study of primitive culture; intentional, no doubt, on the part of a worker whose bibliography is so complete.

A decided gain in strength results, however, in co-ordinating data within the investigator's own familiar field. Miller packs his chapters tight with illustrative material from the enormous literature. His thesis derives its strength from sheer massing of factual data rather than from interpretative handling of material. He fights shy of theories, feeling more secure in erudite workmanship. As a result, the conclusions drawn are close to the facts and appear vigorous and sound. With regard to the field of education, they may be summarized by quoting his final page (263):

> The present study has been confined to an interpretation of the primitive origins of education. It has revealed above all the position of the child in a simple culture as the perpetuating organ of society. Through the conformity of the child the continuity of the tribe is assured. To secure this most desired goal the primitive man resorts to the employment of such elaborate and convincing usages as the initiation rites. It is not, however, the conscious wish of the parents and elders to perpetuate the mores as such, but rather the natural inclination to preserve peace and comfort and prosperity for themselves in this life and in the spirit-world to come. To accomplish this the child must be duly impressed and his behavior demonstrably conditioned for this leading purpose.
>
> The prevailing curricula and the spirit underlying educational systems has departed but little from this norm. It still contains much of the "primitive" element in education. In many ways the child and the youth is still exposed to the primitive view that he is the perpetuating organ of this institutional myth or that antiquated cult. And it is by inculcating a conforming allegiance that these aims, half-understood even by the orthodox educationalists themselves, can be secured. In the light of reason, at least, it is time that this pressure making for conformity and perpetuation of outworn symbols should be replaced by a desire to allow the child to express himself and perpetuate himself by the development of his individuality. Education is only a means to an end. In the past it has been used more or less consciously as the vehicle by which the elders or the privileged have perpetuated their hold through conventional fictions. Perhaps it will be used in the future as an instrument by means of which the child may enrich the culture of his age by the simultaneous development of his own life as well.

In its direct bearing on methods of educating the young, chapter vii is especially valuable. Miller writes,

> Children of all races start on a practical plane of equality, biologically. Culture, like clothing itself, must be fastened upon the child making for an early conformity. Social pressure inevitably tends slowly to attach to the child those marks as in the system of naming, mutilations, reception to the fold and its attendant spirits, which make him typical and recognizable as a member of the tribe.

The child is heir to a culture that has been brought about by the efforts of countless individuals and fused into a sort of organic consistency. This is as real an inheritance as the elements of the geographical environment itself. Much of this heritage sinks into the child unwitnessed and unobserved. The major part of the child's education into its social milieu in the simpler society consists in this absorption of the life-activities of the folk through mere suggestion and imitation. There is little that the child cannot acquire through imitation—to be transformed into the typical Bushman or Fuegian or Veddah. Children were never troubled by schools or school-master. The schoolhouses were the mountains, the rivers, and the sea; their instructor, necessity. When children ask questions of their parents they seldom get satisfactory replies. They are told to hold their tongues, are laughed at, or are given such replies as, "It is the duty of the moon to be there," when the moon is seen in the daytime. In spite of lack of guidance, the children learn at an amazing rate.

Of special importance is the fact that in these primitive tribes, children without being given any explanation but merely by being placed in action—on horses at an early age or allowed to play with bow and arrow—very quickly grasp folk ways of self-maintenance; in fact, they become conservative early in life; for example, certain East African children will refuse to use a hook when shown its superiority for fishing, but will go back to the old ways used when they were younger. By accompanying the father on trading journeys, the children in the Congo quickly learn how to trade. So also the children of Sarawak play about in the midst of a collection of smoked heads, apparently with delight. Such heads, in Samoa for instance, are given to the children for further learning to spear, stone, or mutilate. In some tribes, the boy listens at night to stories and tales told by the elders about the fire. In this way he learns to know the hereditary enemies of the tribe. The child quickly becomes familiar with public affairs and tribal law, so also with the language—all without benefit of teaching. So also with the dances and the songs. The children "watch the dances too and learn the song; they share the wailing over the dead, and listen to the incantations for the sick and the magic-songs that hush the winds and stay the fury of the tempest." All this knowledge is painlessly and heedlessly learned. It all occurs in a most unpremeditated manner. Miller describes the child as being like a sponge that "sops up the social environment, all in all." Nothing is hidden—the child sees and hears everything; there is no whispering on the part

of the elders, his mind is not yet distorted or intimidated by the taboos of later training, and this form of play-education is immediate and trustworthy. The African child, for example, imitates his elder's entire outfit of weapons. He makes a saber out of a sharpened piece of plant stem with a crude wooden hilt. He makes short lances out of bits of wood. In every detail he makes counterparts of the weapons. So among other tribes, the smaller boys can make all the equipment of the elder in play form and imitate them in a serious way. All toys appear to be small imitations of objects of everyday life. They copy indiscriminately the features of society. This imitation sometimes goes to extremes; for instance, in the dolls of the Bororo Indians, "the children made dolls of palm-leaf folded together with detailed characteristics of the sexes, even an imitation of the monkey-tooth breast ornament, a belt of black cloth to signify menstruation, and a covering of down to signify that the doll had just been born." Miller thinks that "there is a promise held out in this type of education which can hardly be equalled by any of the pedagogical methods later devised and elaborated with more purposefulness. This freedom to play into familiarity with the culture instruments sets free the nascent abilities of the child, with whatever creative instincts may lie innate." At any rate there is an absence of the rigid, artificial forms and methods of learning imposed on him now.

Every aspect of life is copied—whatever is seen, including sex relations. Instead of making mud-pies, the For children of Africa make miniature villages, copies of mountains, rough models of men, and animals of clay, etc. Their observations are surprisingly acute always. The Papuan children, for instance, like to be seen walking about with the men, copying their swaggering walk, and sitting smoking idly while the women work, exactly as their fathers do. An example of this imitation in the Waregan children: they constructed an entire model village of houses 40 to 50 centimeters in height, built small fires before them; they caught and roasted fish. Suddenly one called out, "It is night!" and immediately they made a pretense of sleeping. Later one imitated the crowing of a cock. They all now awoke and commenced the day's work. The day usually ended with a combat or the burning of a village. In this play the children attempted to outdo each other, and the inefficient were ridiculed unmercifully. In New Guinea, the girls were seen at their play imitating entire childbirth, playing weddings, funerals, and widows. As widows they arranged their skirts so they would trail on the ground at their feet. They imitated the thief who stole the produce from someone's else's garden. The thief got no mercy. While playing "married life," the Pangwe girls pursued the boys in the midst of a great tumult, scolding and upbraiding them for their laziness and waywardness. Youngsters in Australia play a game in which they have a make-believe fight over the possession of a woman. So also all the social distinctions are imitated seriously. The little chief begins to assume his position very early in life.

In some tribes it is necessary to teach the children unfeeling cruelty. Impressions of a native Borneo child are given as an example. The child was taught to throw a spear into the thigh of a slave woman, old and blind, who

was fastened to a tree. The boy was loath to do it but the father encouraged—"there was no harm in it, it was right," so the boy sneaked around the tree and pricked the woman with the point of the iron, then pricked her a little harder to hear what she would say, but she kept on shrieking. Then one of the other boys ran his spear through her thigh and the old people laughed and said it was good, and the boy just watched the blood. Then the boy was praised by the father, who "said we had been good boys and had done well." The boy continues, "How could I feel at all sorry then for the old thing? I thought only that I had obeyed my father, that I was a great warrior and could wear hornbills' feathers and tiger-cat's teeth. That's the way to become a man. . . . . My father was right." Ridicule, vanity, fear of shame and force, mold the character required by the group. In Fiji, "one of the first lessons taught the infant is to strike its own mother, a neglect of which would beget a fear lest the child should grow up to be a coward." Children are trained to a "revengeful disposition," to regard every other race a natural enemy.

The rites of puberty are treated with special skill and thoroughness. The analogies to present types of initiations and forced conformities to group life are well illustrated in the following descriptions, borrowed freely from chapter x:

> The secrets of these ceremonies are kept very thoroughly. If a woman chances to see what is going on, she may be killed. A man even inquiring about the ceremony may be fined. The informants as to the secrets have often been killed. An atmosphere of continuous excitement and novelty is created. The youth becomes helplessly receptive to the precepts, admonitions and didactic pageantry of the ceremony. It is effected by an accumulated discipline of sleeplessness, ingenious torments, trials, nerve-racking frights. The youth is kept in a state of uncertainty and anxiety; in addition, he is secluded. The whippings and torments employed are sometimes very severe. In a certain tribe, for example, the boys are whipped continuously during a dance and as a result, their backs are seamed with wounds, the scars of which remain through life; the idea being that the neophyte learns the law while he is thrashed. They are trod upon, nettles and hornets are thrown on them; they are compelled to take live embers in their hands. Burning leaves are shaken over their shoulders; they are placed on the nest of a species of virulent ants. These ants swarm over every part of the sufferer's body. By this torture of the flesh, the fact is driven into the boy that the power rests in the hands of the elders and his success as a man depends upon conforming to and respecting it. The boy who winces or demurs at the tortures will never attain to the status of a grown-up in the tribe. He is forced to endure such tests as walking on hot pebbles and crushed palm-nuts, passing naked through thorny thickets, and if he allows a murmur to escape, he is derided and insulted. Thus a yielding and cringing conformity is produced. All kinds of extreme torments are used. In some, the boy is placed in the midst of plenty of food and not allowed to touch any for a long period of time, or he may be given food and told only to bite the food and set it aside. Among the Fuegians, there is a probationary period of two years in which the boy abandons the protection of his family. "He must eat lean hard meat, with no fat." A feature of puberty rites is not only the withholding of food but serving it along with disgusting and nauseating admixtures to test the mettle of the youth and pulverize his will into submission or to befuddle his mind in order to work a permanent remembrance in his consciousness of this

occasion. For example, in the Gilbert Islands, the mixture is fresh water, sea water, and cocoanut oil, stirred together in a cocoanut shell with the barb of a sting ray. While the potion is being downed, the boy's scalp is lacerated with a sharp tooth until the blood streams over the eyes and cheeks. In certain tribes, the boys are half-starved and then given intoxicating drinks which make them go raving mad, all of which continues about five or six weeks, and the little meat they eat is loathsome stuff mixed with all manner of filth it is possible to get. . . . . Several die under this procedure. The effort apparently is to produce a total revolution in the attitude of the child to make him forget his relatives, etc. When deaths occur in such ceremonies they are kept secret. The body is buried in the vicinity without benefit of mourning or funeral ceremony for such individuals never became mature; "if a mother does not see her son emerge from the ceremony she knows by certain signs that he is dead," the faces of the survivors being painted in a certain way. Weird noises, dim foreboding, mysterious trappings of all sort are employed to make the youth eager to turn to the headman for personal guidance. Large hot stones are sent coursing down the hills past the boys, scorching the grass in their passage. This is supposed to be the work of the angry spirit. Bull-roarers are used to frighten the boys, etc. Among the Fifians, for instance, the lads are compelled to crawl under an arch made of pyramids of dead bodies, with entrails protruding. They have to crawl over the dead bodies. "Suddenly the chief burst out with a yell; the dead men started up and ran to wash off the blood and filth. They are playing the part of the dead ancestors. . . . ." One observer states that what the boys dread is not the physical suffering so much as the fearful mystery and the heavy responsibilities which the ceremony entails. So is youth moulded into the required cultural stereotypes of the group.

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*The Intelligent Woman's Guide to Socialism and Capitalism.* By G. BERNARD SHAW. London: Constable, 1928. Pp. 532. 15*s*.

*The Next Ten Years in British Social and Economic Policy.* By G. D. H. COLE. New York: Macmillan Co., 1929. Pp. xxi+459. $3.50.

Two books by two leading British socialists published scarcely a year apart. Yet the books themselves are as far apart as the traditional Poles. The one is concerned with restating in terms every woman can understand the fundamentals of the Socialist creed. The other is an attempt to think out afresh the application of socialism to the immediate problems confronting England. More than that the two belong to different intellectual worlds. The one moves in a world of abstractions, uniformities, simplicities, where all problems look alike and are to be solved by formulas. "Now when you have the formula for these two nationalisations (coal and banking)," says Mr. Shaw (on p. 297), "you have a formula for all nationalisations." But to Mr. Cole,

> Socialisation is not a rigid scheme to be applied uniformly to all industries and services, but an idea needing to be adapted to each particular case and constantly modified in its working out in the light of changing social and technical conditions. It

means, not the application of simple formula of national acquisition to any and every industry or service, but the extension of some kind of effective social control over the economic system as a whole, and over all such parts of it as vitally affect the conduct of the whole [pp. 132–33].

Mr. Cole's world obviously is one in which "unity has given place to diversity," in which the particular is more important than the general, in which perplexities abound and will continue to thrive, in which an ultimate solution of problems is scarcely to be thought of.

That Bernard Shaw restates the doctrines of socialism brilliantly, paradoxically, entertainingly goes without saying. Every chapter has its gems, and almost every reader will find his "pet peeve" treated somewhere to the rapier-like thrusts he has longed to administer if only God had granted him the use of that weapon. And perhaps it is equally true that almost every reader will find himself on the defensive some place before he puts the book aside as the weapon touches his own holy of holies. But for all that the book is not easy to read. Not all Mr. Shaw's rhetoric can succeed for 500 pages in concealing the fact that the thought of the book is old and has often been expressed before.

Mr. Cole's book is far more exciting. In part this is because it has interesting and sometimes novel proposals for dealing with current social problems. It cannot fail to be stimulating to find a person endeavoring to think through just what he would do about the unemployment problem, education, the wages problem, to mention only a few with which Mr. Cole deals, not in a world made to order but in the world of here and now, with all its complexities and the necessities it imposes of taking at almost every point something less than the heart desires. Most comprehensive plans for social reorganization belong to one of two classes. Either they ignore the world about them and the necessity of working from it to something different, or they are so conscious of immediate difficulties that they rest content with minor reforms that get nowhere. It is because this book falls in neither class that it is out of the ordinary. Whether the particular proposals that it contains point a way out of England's present difficulties is far from certain. If they fall short, however, it is not because Mr. Cole tried to find a panacea or lacked courage to try new ventures. But the author does not claim that they are the best measures that could be devised, only the best that he could devise, put forth as much to provoke discussion as to point a way. Their range is so wide, however, that they defy discussion or even summarization within the limits of a review. One can only hope that the Labour government will take them seriously enough to give them the consideration they so well deserve.

But the deeper reason for the stimulation afforded by the book is its intellectual quality. It shows so clearly the traces of the agony of thought, of a mind grappling with new problems, willing to throw overboard old commitments if they do not serve under the new conditions. Even if you have no use for the author's particular proposals for English policy in the next ten years, you must admire his honesty, his courage, and the progress he has made in knowing him-

self. No one so far as I know has given as keen a criticism of guild socialism as its leading exponent only ten years ago:

> When I look back at my earlier books, they seem to me to be dominated by the idea of government as a moral discipline. It is good to be free, I argued, and therefore men ought to be free whether they wish it or not. . . . . Men must be forced to be free, I used to urge; and I added that they should be forced to use their freedom in the particular ways that appealed to me. The idea of work under an externally imposed discipline was repellent to me in my own crafts of writing and teaching; and I therefore assumed that it ought to be repellent to everybody, whatever the character of his job and whatever the cast of his own mind might be [pp. 160–61].

The ability to look at his own theories with this objectivity, even his theories of an earlier decade, is a rare quality, especially when as in this case there has been no "conversion" to a newer creed or no complete abandonment of his fundamental theory. Moreover, it is a quality that one would not have suspected in G. D. H. Cole when he was expounding the gospel of guild socialism.

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*Labor Speaks for Itself on Religion: A Symposium of Labor Leaders throughout the World.* Edited, with an Introduction, by JEROME DAVIS. New York: Macmillan Co., 1929. Pp. 265. $2.00.

This compilation complements the editor's similar work, *Business and the Church*,[1] and the two books furnish a very instructive conspectus of the whole field of labor economics and industrial conflict. "In the endeavor to hear the voice of Labor speaking for itself," "by a declaration from the heart of Labor to the Church," the editor has solicited articles from labor leaders all over the world, stating frankly their opinions about religion. The Italian and French labor groups are not represented, though they were invited. The thought of some outstanding leaders is absent because they are not inclined nor perhaps able to write on such an abstract subject. America is represented by eleven contributors, beginning with James Maurer and ending with William Green; Canada by two; Great Britain by three, including Arthur Henderson; Russia by four (Lenin, Trotsky, Lunacharsky, Yaroslavsky); Germany by three (Crispien, Goering, Mennicke); and one each from Austria (Kautsky), Czechoslovakia (Radl), Belgium (Vandervelde), Mexico (Habermann), and also from Australia, Japan, and China. In this connection it should be said that the brief biographical notes prefacing the articles are a valuable feature of the book, for nowhere are such accurate up-to-date biographies so easily accessible.

The opinions as to labor's actual, and its proper attitude toward religion are of the widest variety. One feels at once the desirability of a more precise definition of the terms "religion" and "church." One writer identifies

[1] Reviewed in this *Review*, III, 329.

religion with Christianity and then dismisses the "dark mass" as "bourgeois ideology." In the American field a contributor decides with emphasis for a close relation between the Christian churches and labor, but he is obviously thinking of Protestantism and Protestant principles. Nearby a Roman Catholic leader fervently pledges his religious loyalty to his labor allegiance and vice versa, but his premises, logic, and conclusions are quite different from those of the Protestant.

Perhaps, however, such variety is one of the chief advantages of a symposium of this kind, and add to it realism, even humor. William Green and Yaroslavsky, Maurer and Henderson, Thompson (I.W.W.) and T. F. MacMahon are poles apart, though each speaks of labor in a way that might lead the uninitiated to suppose labor a thoroughly compact and unanimous body throughout the world. Four typical attitudes are expressed: (1) the appropriateness and desirability of a working allegiance with the "Church" (Tobin, MacMahon, J. P. Noonan, William Green, and Andrew Furuseth); (2) an open contempt for church "Christianity" based on practical experience with its indifference or its partiality to capital during strikes (Maurer, Landsberg, Thompson, E. H. Barker); (3) refusal to admit that approval or disapproval of Christianity, the church, even the Carpenter's teachings is important to the cause of labor or even desirable for its adherents (Crispien, Goering, Kautsky); (4) a critical antagonism to religious supernaturalism and mysticism (the Russians, Mennicke). As to the others, one might have expected that the attitudes of Radl, of Czechoslovakia, Habermann, of Mexico, and Kagawa, of Japan, would be tentative and ambiguous. The contributions of Radl and Habermann are exceedingly concise and vivid sketches of the history of the problem as it is entangled with politics in their countries.

Most of the contributions are polemic, rather than conciliatory; and it is almost invariably taken for granted that when the "Church" does not openly and actively espouse the cause of labor in every situation, it is recreant to any principles that might be called religious. No notice is taken of the view that in certain situations the good of *all* workers may not be identical with those organized in unions or parties. Even to one disposed to criticize the economic inconsistency, often the ethical apostasy of the Christian churches in general, the views expressed by many of the labor critics seem rash and unfair. Recognition of the efforts of the Federal Council of Churches, the National Catholic Welfare Conference, and the Jewish Federation to develop understanding and sympathy for the aims of labor is scanty.

For the social philosopher, the articles by Muste, Vandervelde, Hardman, and that on Negro labor by Randolph of the Porters' Union will prove most profitable. The clergyman will probably be disappointed to find few practical suggestions for the *rapprochement* of religion and labor. Professor Davis himself suggests that the neutral or hostile attitude of some churches toward organized labor is due to the "subtle, psychologic influence of property power" (p. 23) and the unconscious exchange of the gift of prophecy for yearly budgets and busi-

ness boards; and by capital's monopoly of the minister's time and energy in social, recreational, and philanthropic activities. One trenchant observation is to the effect that clergymen seem to be much less willing to make sacrifices of ease, salary, and social position for the sake of their professed ideals than do the servants of labor.

Out of the hurlyburly of the symposium two hopeful thoughts emerge: (1) The purely humanitarian responsibilities of the Christian church, apart from any economic partialities and "bourgeois ideology," require it to consider and to help redress the wrongs, bondage, and miseries of the exploited workers; (2) labor's aspirations are developing a practical and a mystical humanism which may prove both a substitute and a solvent for otherworldliness and dependence upon a supernatural Providence. "We refuse to accept man-made misery, destitution, and crime as the will of God" (p. 161). "The religion of Labor is not godless, for it seeks to restore the divinity of Man" (p. 53). "A religious belief that raises men by lifting them out of themselves and turning them toward supra-individual ends and gives them a hope which invites to action"—such is the mysticism of labor, which is ardently extolled by many of the writers.

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*The American Labor Year Book 1929.* By the LABOR RESEARCH DEPARTMENT OF THE RAND SCHOOL OF SOCIAL SCIENCE. New York: Rand School, 1929. Pp. 302. $2.50.

The latest issue of the *American Labor Year Book*, covering the year 1928 and parts of 1927, follows much the same pattern as its predecessors and continues to give a compact survey of the world of labor at home and abroad. This survey is prefaced, as before, by a chapter on outstanding economic events and tendencies, and by another on agricultural conditions. These are stuffed with much useful reference matter, which should find a handy place on the desks of trade-union officers and editors.

Unlike most yearbooks this one is written with a definite point of view, which obtrudes even in the factual portions. Indeed, it is primarily an interpretation bolstered up with facts. The interpretative note is struck at the very outset when we are launched on the world-situation of industry, commerce, and finance, and have pointed out to us the crystallizing "lines of European-American hostility, and more especially British-American hostility," the tightening grip of American imperialism, the sapping of life and vitality from American workers. Sometimes the bolstering facts are questionable, as for instance the statement that "the number of American workers who could not find jobs was conservatively estimated during 1928 at 4,000,000"; and sometimes the proper facts cannot be found and we are left with generalizations. A great amount of authoritative material has none the less been presented, whose

usefulness is not marred by the author's slant except in so far as that prejudices receptiveness and awakens suspicions in the reader.

In the field of the labor movement proper the *Year Book* tends to become the chronicle of the independent left wing and opposition groups. Their strikes, political activities, struggles for civil liberties furnish the colorful and dramatic episodes. The casting out of Brookwood is the chief event recorded at the American Federation of Labor Convention in 1928. The impression given of the "regular" American labor movement is a dreary and bankrupt one. Perhaps such an impression is entirely warranted, but again the reader inevitably begins to lean backward when he sees the amount of space and emphasis given to the Communist party and trade-union factions in all countries, even those in which their influence is entirely, and admittedly, negligible.

The independent point of view, the attention paid to minorities and oppositions, help to make the *American Labor Year Book* complete and valuable. For it emphasizes many things that more conservative or official reference books overlook or minimize. It is a good thing to have the impressive evidence of American prosperity marshaled side by side with the no less impressive evidence of maldistribution, unemployment, industrial accidents; to compare profits with real wages, with proportion of total value paid out as wages, and with workers' budgets and standards of living. It is also a good thing to compare the convention proceedings of established unions with the programs and ambitions of rebel organizations. The results of such comparisons are not flattering to the *status quo*, and are stimulating and encouraging to the advance guard. The *Year Book* is a manual, a mine of information, to the critical and intransigent. But it is also adapted to the use of those not immediately occupied with the class struggle; and for them its usefulness depends less on heavy underscoring of Marxian interpretation of history than on careful arrangement and better indexing, which would make all topics conveniently accessible—for instance the various aspects of important industries like mining and textiles, now scattered, almost hidden, in different sections of the book.

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*Motion Picture Problems: The Cinema and the League of Nations.* By WILLIAM MARSTON SEABURY. New York: Avondale Press, 1929. Pp. 426. $3.50.

This volume was written by the former general counsel to the National Association of the Motion Picture Industry. Mr. Seabury distrusts the intentions of the producers and is alarmed by the harmful influences of the present type of motion pictures. The uncontrolled release of propaganda and other undesirable pictures places at stake both national and international interests and makes expedient some form of international control. Mr. Seabury proposes an interesting program which would place such control in a cinema committee of the

League of Nations. This committee would inspect pictures at the point of production, and from this inspection provide analyses and data which would permit each country to decide for or against the admission of the picture into their territory. Mr. Seabury declares that cinema producers will produce pictures of an improved moral and social character only when it is more profitable to do so. The threatened loss of markets through the condemnation of pictures following official inspection will provide, according to the author, the economic lever necessary for such moral improvement of pictures.

An exhaustive Appendix presents a number of international reports on the moral influence of the movies, censorship regulation, national cinema decrees, and statistical data on the American industry.

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*The Care of the Unmarried Mother.* By ROBERT SOUTH BARRETT. Alexandria, Virginia: Published by the author, 1929. Pp. 224. $5.00.

The author of this study is the president of the National Florence Crittendon Mission and the son of the late Dr. Kate Waller Barrett, one of the founders of that organization. He tells us in the Preface that in the last twenty-five years he has studied 50,000 cases of unmarried mothers in all parts of the United States, examined and analyzed 10,000 case records, and made an intensive study of the personal and mental characteristics of nearly 1,000 girls. He feels there is a dearth of printed material on the subject, and this book has been written to remedy that defect.

The reader, therefore, eagerly turns the pages to find new light on this age-old subject, but he searches in vain throughout the book for what the author learned from his study, except that he appears to think that other writers have, after all, said what needed to be said. The best sources have been carefully selected and freely quoted to form a kind of handbook for maternity homes.

The Introduction is taken from Mangold, *Children Born Out of Wedlock;* the first chapter gives facts regarding the extent of the problem as presented in certain reports of the United States Children's Bureau and Mangold; the second and third chapters on causative factors are a summary of parts of Kammerer, *The Unmarried Mother;* the legal aspects are from Freund; some observations regarding board members from Hart; and methods of conducting an institution, medical care, food, and clothing for mothers and babies come largely from various government publications. A picture of the sweet motherly face of Dr. Kate Barrett begins the book, and she is quoted again and again concerning the details of conducting a maternity home. Her belief that the unmarried mother through her devotion to her child could attain the "highest realization of the ideals of womanhood" never wavered throughout her long years of experience.

In the Appendix is a list of homes for unmarried mothers in the United States, and there are also some record forms which are better than those used by most such institutions. The lack of any bibliography seems serious in a book of this sort, since one supposes that the readers will be largely members of boards of directors of maternity homes and persons who are not familiar with the literature on the subject, but might through such a book as this be introduced to it.

Even as it stands the book has value for such an audience, for such things are stressed as the importance of keeping mother and child together, the danger of forced marriages, the necessity of the best of medical care, the value of a small homelike place rather than a large institution, the need of psychiatric advice, and especially the need of a trained case worker to care for the social aspects of the situation and help work out permanent plans with the mother. It is disappointing, however, to find the statement that there are only three interests to be kept in mind, that of the mother, the child, and society (p. 89). Quotations from some of the best case workers regarding the father, as one essential part of the unmarried family group, might well have been included here.

This is not a book which professional social workers will need to find time to read since it adds little to what has already been said. When the author remarks that a large share of the girls who are in maternity homes have been raised in orphan asylums (p. 90) we want so much to know just how many, what share of those 50,000 cases. How valuable it would be to have even that one new fact! If there actually are 10,000 good case records, what useful information they must contain! We hope Mr. Barrett will not be so modest next time and instead of quoting others will tell us just what he found.

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*The Education of Mentally Defective Children. Psychological Observations and Practical Suggestions.* By ALICE DESCOUDRES. Translated from the second edition by E. F. ROW. New York: D. C. Heath, 1928. Pp. 341. $2.00.

This book presents observations on principles of training and on programs for the instruction of mentally defective children. Practical suggestions for the organization and direction of special classes are generously given.

The governing principles of special teaching, as developed by the writer, deserve emphasis, and the stress that she places on these fundamental concepts emphasizes the present-day uncertainty of much of our usually accepted special-school technique. Utilization of the natural activity of the pupil is offered as the first fundamental. The second principle is the very particular importance attached to perceptive knowledge and sensory training—analyzing, dissecting, and investigating the elements on which individual perceptions depend. Corre-

lation which aims at creating, strengthening, and improving associations of ideas is the third, and the fourth principle relates itself to individualization which insists that the teaching of the defective child shall take into account the needs of each particular type of mentality. The last principle directs attention to the utilitarian character of the teaching and stresses the immediate utilization in actual life of the ideas acquired in the course of that teaching.

There are valuable chapters on the training of the senses, and methods to stimulate their growth and development are carefully presented. The section of the book that deals with speech correction and the teaching of reading, spelling, and arithmetic abounds with well-presented experiments and clear, but not unchallenged, technique procedures which have in many cases at least brought about individual improvement and suggest a wiser and more economical utilization of teachers' efforts than is now generally evidenced.

The final chapter deals with moral training; emphasizes the applicability of these specially developed methods in groups of so-called normal children evidencing behavior disorders and points the way to the removal of many disappointments to teachers and pupils through the utilization of a type of teaching that is less verbal, more active and closer to actual life than is now generally experienced. The book, though detailed and at places quite elementary, is interesting, valuable, and suggestive of a newer and better day in the training of mentally defective children.

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*Studies in Hereditary Ability.* By W. T. J. GUN. London: George Allen & Unwin, 1928. Pp. 288. 10*s.* 6*d.*

*Studies in Hereditary Ability,* by W. T. J. Gun, has as its purpose to "ascertain for how long ability in various well-known connections has really continued." It attempts "a somewhat more extended delineation of character and achievements than that undertaken by Galton." The author begins with the statement that "it certainly does not matter a great deal what a man is, but the root of the matter lies in his ancestry, for from them he derives those deeper qualities which make or mar a career." The study makes use of historical material, and the approach is that of the genealogist, rather than the biologist. Although the book offers interesting reading—note some of the chapter headings, "Wit and Wickedness," "A Dream of Fair Women," Five Great Gossips," "Intellect and Athletics"—it can scarcely be recommended as a serious scientific treatise from a biological viewpoint. A student of genealogy may, however, find interest in the actual material and the way in which it has been amassed. The collection of the material shows workmanship.

The author's conclusions, stated in the Introduction, are guarded and sum up well the type and quality of the study in brief. These conclusions are the following:

1. There can be no reasonable doubt that it is an absolutely equal chance whether ability descends through the paternal or maternal line.

2. The descent of specialized ability is comparatively rare.

3. In a comparison between powers of leadership and intellectual powers, while both are equally inherited, there seems more reason to suppose that the former are apt to persist in families longer than the latter.

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CHICAGO

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*Social Case Work—Generic and Specific: A Report of the Milford Conference* ("Studies in the Practice of Social Work," No. 2). New York: American Association of Social Workers, 1929. Pp. 92. $1.00.

An informal group of social workers representing a number of special fields of case work and calling themselves the Milford Conference have, after a number of years of discussion and deliberation, presented their first report. Originally imbued with the desire to differentiate the separate fields of social case work, the Committee found themselves confronted with such fundamental questions as "What is generic social case work? What is a competent agency for the performance of social case work? What is a logical and workable division of labor among agencies for social case work? What is the basis of training, present and future, for the profession of the case worker?" The report of 92 pages has been published by the American Association of Social Workers as the second in its series of studies in the practice of social work.

The members of the Conference found the ambitious task which they had imposed upon themselves stimulating but extremely complicated in its nature. They have realized that social case work is fully professional and scientific only in its potentialities rather than in its present achievements, and they were therefore compelled to pioneer in the formulation of theories and definitions for a field of effort essentially empirical and practical in its development. That the most important results of their efforts are to be found in the agreement upon desirable standards and principles rather than in fundamental concepts for case work was to be expected. It is noteworthy that some of the important theoretical problems of case work have been set forth in a manner which cannot but facilitate the further attempts at research and deliberation which the report so strongly urges. What is considered by the Conference itself as its chief contribution, the conclusion that "generic social case work was much more substantial in content and much more significant in its implications for all forms of social case work than were any of the specific emphases of the different case work fields," is a particularly salutary pronouncement in the present stage of social work.

It is to the credit of the report that it will probably raise more questions than it will answer. A few of these questions may be mentioned here: There will

be a disinclination to accept the suggested principles of division between the separate fields of case work. The discussion of case work training is premised upon too immediate a basis of training needs. The Conference proceeds too rapidly to a consideration of social case work as a service called forth by an intrinsic human need called "self-maintenance," without relating social case work to the fundamental problems and conditions of social organization. The "distinctive requirements of certain specific fields" seem vague and unconvincing; in some instances they seem trivial. On the whole, however, the statements and definitions show both logic and intelligence. An outstanding example is chapter xiii, "The Study of Social Case Work," which presents the need for case work research and states the general considerations upon which it should be based.

Social case workers and social work in general are under obligation to the members of the Milford Conference, and to the Committee consisting of Porter R. Lee, chairman, Harriet E. Anderson, C. C. Carstens, Margaret E. Rich, and M. Antoinette Cannon (who succeeded Mary C. Hurlbutt), who are primarily responsible for the report. It will serve as a landmark in the attempts to present social case work from a modern and scientific point of view.

H. L. Lurie

University of Chicago

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*Training for Group Experience: A Syllabus of Materials from a Laboratory Course for Group Leaders Given at Columbia University in 1927.* Recorded by Alfred Dwight Sheffield, with an Introduction by John Dewey. New York: The Inquiry, 1929. Pp. xv+105. $1.50.

Is there something in the current emphasis on group discussion that is of more than usual significance for social service workers? Can committees, conferences, clubs, and classes have vigorous discussion that is shared in by all the members of such groups and at the same time be effective in "getting somewhere"? Can discussions be thoroughly democratic and at the same time profoundly educational in their process? Can issues upon which there is a decided clash of opinion be brought to the fore in discussion and unanimity of opinion be secured in the decision reached through a process of integration?

Professor Sheffield and others of the *Inquiry* staff have been giving a vigorous affirmative answer to such questions and have published valuable material dealing with methods for effective discussion based upon their researches in this field. One of their latest experiments was a laboratory course for group leaders given at Columbia University. The compact volume *Training for Group Experience* gives "a summary of the distinctive features of content in such a course." The course was addressed to a concern with group processes at three fundamental points: (1) "It viewed group discussion in its due setting of organizational relationships and activities; (2) it aimed to set the student for-

ward in practical skill as a discussion leader; (3) it sought to stimulate and reinforce the social thinking involved in group work by readings from current social science."

Members of various educational and social service organizations participated in this laboratory course of which Professor Sheffield's volume gives the general plan. Those participating in the course were divided into subsections, each dealing with the problems of one of the following types of social organization: the club, the class, the conference, and the committee. A sketch-chart outlining the method of group procedure was evolved from the actual experience of the entire class.

In the section devoted to the problems of the club, emphasis is laid upon experimentation with more fluid structures, more conducive to initiative and more adaptable to changing desires and interests of the group. The art of club leadership according to this study includes "a new art of group dialogue, a concerted give-and-take in which people deal with their differences in ways that are mutually revealing and creative." In dealing with the problems of the class, special attention is given to the questions, "How is information most fruitfully introduced in the learning process?" and "How can the learners develop open-mindedness in their reactions to social facts and values?" The presupposition in the treatment here given is that the learning process is a "continuous audit of living."

In considering the problems of the conference assembly the distinction between conventions and conference institutions is clearly set forth. Concerning the latter, Professor Sheffield recognizes the low educational value of speaker-programs with delegates either passive or merely discussing the addresses given rather than felt problems. He then gives the requisites for a conference program which would be educationally sound, affording the delegate "a training in the process by which socially valid convictions are reached."

Of still greater value, perhaps, is the way in which are set forth the significant conference aims, the difficulties in the way of obtaining these aims, and the methods found successful in overcoming these difficulties. The aims include: (1) "to develop specific understandings and skills, especially for leadership in carrying out the programs of home organizations"; (2) "to afford a concentrated and guided experience of socially enlightened living"; (3) "to afford help to individuals in their problems of personal adjustment."

In dealing with convention problems, the ordinary parliamentary procedure is roundly criticized for making most difficult a *considering* state of mind toward issues and rendering practically impossible the integration of various viewpoints in working toward solutions of the problems.

Perhaps the social service executive will find the report of the course dealing with committee and board problems most valuable. The ever-present practical difficulties in the way of harmonious and educationally fruitful committee meetings are clearly stated and educationally and socially desirable methods of meet-

ing these problems are set forth. "The scientific elimination of waste—of the social waste of frictions and missed leads in group functioning"—is faced as a fundamental problem.

Other difficulties such as securing "concerted thinking" and group convictions on the part of committee members and the "educative spread from committee work to the general membership" receive consideration as fundamental. The relationship of the specialist to his lay committee is also given attention in this section.

In the chapter entitled "Discussion as a Re-Direction of Experience" the educational and social values of group discussion are brought to the fore. Significant indeed is the value placed on conflict in group experience. Through tension "new values get their first due attention," thus giving the group members opportunity to "reappraise interests and satisfactions" and "make vitalizing revisions of purposes."

The final chapter of the syllabus "outlining a training course for group leaders" deals with the comprehensive and detailed example of a question outline for the analysis of organizational functioning, and with the principles guiding and the pitfalls involved in field practice in discussion leadership.

The concluding section deals with the use of readings from social science pertinent to a training-course for group experience. The example given of the material to be gathered from the literature of social science contains much that will challenge attention because of its sociological and psychological significance. One may be disappointed because no bibliography is given, though reference is made to a pamphlet, *Creative Discussion*, which contains a list of readings.

This laboratory course in group experience was planned especially to furnish university departments of education and social science with material for a similar course of training. But the record is valuable to all of us engaged in any form of social service activity that requires group work—case workers, club and class leaders, and executives. Most of us will agree with Professor Dewey's introductory statement that the "intellectual methods of democracy are inadequate to the issues with which a democracy has to deal." This volume stimulates consideration of the question as to "whether there is any way out of the problems and failures that attend democratic activity . . . . save through the more expanded use of group discussion."

Perhaps one may receive the impression from reading this volume that the recorder has not sufficiently stressed the difficulties to be overcome in the securing of fruitful group discussion, making the process used in the *Inquiry* experiment seem a little too simple. Certainly more material will be desired by anyone planning a training course in group discussion than even such a splendidly compact volume as this has to offer. Yet the record deserves a wide reading among those interested in the problem of increasing the social and educational value of group experiences.

GLENFORD W. LAWRENCE

CHICAGO COMMONS

*A Decade of Rural Progress: Proceedings of the Tenth and Eleventh Country Life Conferences.* Edited by BENSON Y. LANDIS and N. T. FRAME. Chicago: University of Chicago Press, 1928. Pp. 161. $2.00.

*Handbook of Rural Social Resources.* Edited by BENSON Y. LANDIS. Chicago: University of Chicago Press, 1928. Pp. xi+226. $2.00.

The volume under the title *A Decade of Rural Progress* embodies reports of committees to the American Country Life Association made at the conference held in East Lansing, Michigan, in 1927, and in Urbana, Illinois, in 1928. These reports are grouped under four heads: (1) "The Issues in Rural Progress"; (2) "A Decade of Rural Progress"; (3) "Farm Incomes and Rural Progress"; and (4) "The American Country Life Association after Ten Years." Emphasis is placed throughout the volume on two main points: (1) the merging of the social and economic aspects of rural problems into "a common concept, the standard of life and the means for its realization"; and (2) the inequalities existing between urban and rural areas with respect to such questions as taxation and the distribution of wealth. The reports are of value to the student of rural problems in that they present briefly the changes of attitude toward rural problems during the last decade, the accomplishments in the most important fields, such as education and public health, and indicate the lines along which further investigation must be carried in order that farmers and professional workers may deal wisely with the problems related to the rural districts.

The first *Handbook of Rural Social Resources* appeared in 1926 with Henry Israel and Benson Y. Landis as coeditors. As in the previous volume, the material in the more recent "handbook" is divided into two sections. Part I consists of interpretations of developments in rural life within the last seven years, each subject having been handled by a student of the topic discussed. Part II presents brief statements of the activities of the national agencies engaged in rural social work. This small volume has the same usefulness for the student of, or social worker in, rural communities as has the directory of social agencies for those concerned with the social work in a city.

ELINOR NIMS

WESTERN RESERVE UNIVERSITY

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*The Changing Urban Neighborhood.* By BESSIE A. MCCLENAHAN. University of Southern California Studies. Los Angeles, 1929. Pp. xi+140. Paper $1.25, cloth $2.00.

This little book by Dr. McClenahan adds to the happily growing body of monographic materials which are displacing the older sociology of glittering generalities. It presents no startling discoveries, but is an interesting presentation of what the author found in a changing middle-class area of single residences in Los Angeles.

In the course of her description Dr. McClenahan offers some interesting,

though not entirely novel, interpretations. For example, she has undertaken to relate locus or spatial placement to status or social placement, showing that economic security or rise in social status promotes stability of residence, while threatened loss of social position tends to result in removal provided economic conditions permit. Again she offers a threefold classification of degrees of social participation. "Participation" is characterized by a considerable degree of intimacy expressed through social gatherings, exchange of visits, and extension of friendly services. "Limited participation" is manifested principally in exchange of greetings. "Non-participation" is abstention from association. She proposes two new terms for the description of certain facts of city life. The first, "nigh-dwellers," seems to be a happy choice. The second, "communality," although possessing excellent dictionary authority, seems awkward and likely to be confusing.

Dr. McClenahan found three types of changes taking place in the area studied: physical, as types of buildings and land utilization; economic, as decreasing home ownership and increasing number and variety of available services; and social, as increasing mobility, declining intimacy, and increasing formality in means of social control.

There is nothing profound about this monograph, but it is of value as testing and supplementing previous studies in this field.

STUART A. QUEEN

UNIVERSITY OF KANSAS

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*Trends in American Sociology.* Edited by GEORGE A. LUNDBERG, READ BAIN, and NELS ANDERSON. New York: Harper & Bros., 1929. Pp. xii+443. Price $3.00.

This volume, to which ten of the younger group of sociologists have contributed, is an interesting experiment in co-operative authorship in the field of sociology. The ten chapters which comprise this symposium attempt to cover the entire range of American sociological thought and show evidence of real scholarship on the part of the various authors. While the publisher's statement insists that the book is characterized by great unanimity of thought, the careful reader may be disposed to think otherwise. At this stage of development of sociology it would hardly be possible to find ten able and independent thinkers who could jointly produce a book dominated by a common point of view. To many, this diversity of thought adds interest to the book and should not be regarded as one of its limitations. Its chief defect lies rather in its overlapping of subject matter, which is very noticeable in spite of the apparent efforts of the editors to avoid this difficulty. Perhaps the chapter topics are so closely interrelated that poaching on one another's territory is inevitable. If this is true, joint authorship on such a large scale is not a very appropriate procedure for a book in this field. In these days when so many devices are used to produce large and formidable books, one sometimes wishes that American writers would

adopt more frequently the European custom of publishing small monographs. Such a plan, if followed by the individual contributors to this volume, would have given them a more adequate opportunity to present their materials unhampered by the efforts to fit their discussion into a prescribed mold. This suggestion does not carry with it the implication that a symposium has no value. The point which the reviewer wishes to make is that if a symposium is to result in a well-balanced and readable book, it requires much more careful planning and editing than was apparently the case in the volume under discussion.

The book as a whole has been prepared to fit the needs of advanced students of sociology familiar with the varying points of view of different writers, and is too technical in nature to make a wide appeal to social workers. This is not true, however, of the excellent historical chapter written by Mrs. Jessie Bernard, which could be read with great profit by those social workers whose ideas concerning sociology were gained by what they learned about this subject ten or twenty years ago and who have not kept pace with its newer developments. Of greatest interest to social workers is the chapter dealing with sociology and social work prepared by Harold A. Phelps, of Brown University. In this well-documented chapter the writer makes a clear statement of the nature and function of social work and its relation to sociology. According to him, social work is an art, but in order to be an effective art it must make use of the social sciences. Social work and social science must go forward hand in hand in order to accomplish their respective tasks. In his distinction between a sociological problem, a social problem, and a social work problem, he clears up much confused thinking on this subject and provides a sound basis for a better understanding of the interrelationship of sociology and social work.

A chapter that might well have been omitted is the one on trends in applied sociology which not merely duplicates to a considerable degree the preceding discussion of sociology and social work but tends to perpetuate a misleading term that seems to be drifting into general disuse. The writers of this chapter seem to agree that there is no logical reason why attempts to solve such social problems as poverty, crime, and housing should be designated applied sociology and that social technology is "the science whose function is to mobilize materials from all sources and to organize them usefully for practical workers." If this is true, the relevant portions of this chapter might have been included in the discussion of sociology and social work, thereby rounding out that discussion and avoiding useless repetition.

It is in the general outline followed, rather than in the subject matter itself, that the book has laid itself open to the most serious criticism. Nevertheless, in spite of this defect, it summarizes in a very thorough manner modern sociological trends and will be read with interest by students at work in this field of social science.

J. F. STEINER

TULANE UNIVERSITY

*Decremento e aumento della tubercolosi.* By ALFREDO NICEFORO. (Estratto da *Difesa Sociale*, Anno VIII, n. 5.) Rome, 1929. Pp. 12.

Professor Niceforo has assembled in this monograph statistics of deaths from tuberculosis that he has assembled from fourteen countries, including the United States. The figures in his most important table cover the period 1900–1924. The data for each country are presented to show, not only the death-rates for all forms of the disease combined, but also the rates for pulmonary and non-pulmonary tuberculosis, respectively.

Although all fourteen countries showed a decrease in deaths from tuberculosis during this period, the largest absolute differences between the rate for 1900 and the rate for 1924 were reported in Ireland, Scotland, and the United States, where they were 142, 117, and 110, respectively. The foregoing figures relate to all forms of tuberculosis. When the pulmonary and non-pulmonary forms are considered separately, similar decreases appear, though in different proportions in the various countries and in the two categories. In the United States, for example, the decrease for non-pulmonary forms of the disease is only 8, while the decrease for pulmonary forms is given as 102. In contrast with these figures, the decreases for Scotland are 85 and 32, respectively, for the two categories.

A second table gives the median rate of deaths for five-year periods from 1900 to 1924, inclusive, for all forms of tuberculosis. Here, again, except in the quinquennium of the war—1915–19—when the median rose above that of the preceding five-year period, a steady falling off of the death-rate is recorded in all fourteen countries.

A supplementary table includes data from the period antecedent to 1900, the value of which, in the opinion of the author, may legitimately be questioned. Among the nineteen countries included, an increase in the death-rate for all forms of tuberculosis appeared only in Japan. In all other countries the older statistics showed much higher death-rates than those assembled more recently. In the case of Japan, the figure given for the quinquennium 1896–1900 was lower than any subsequently reported. The steady rise in death-rate in Japan apparently reached its peak, however, in 1918, and the two figures given for subsequent years indicate a declining trend.

In conclusion, the author ventures possible interpretations of his figures. He quotes Sanarelli's argument that immunization results from the constant exposure to the bacillus induced by life in a modern city. He quite properly points out, however, that conclusions of this character lie within the field of the biologist rather than of the statistician. The monograph is clearly and interestingly written and, like other studies in this field, should contribute to the growing recognition throughout the world of the importance of vital statistics that will lend themselves readily to scientific purposes.

A. W. MCMILLEN

UNIVERSITY OF CHICAGO

*Crime and Punishment in Germany.* By THEODOR HAMPE. Translated by MALCOLM LETTS, F.S.A. New York: E. P. Dutton & Co., Inc., 1929. Pp. 175. $3.50.

This careful and scholarly piece of research into the remarkable Nuremberg Malefactors' Chronicles has been improved for the English-speaking reader through the understanding and insight of the translator. The English edition begins with a charming description of sixteenth century Nuremberg, which was governed excellently, albeit somewhat overzealously, and was kept "sweet and clean" by astonishingly modern sanitary regulations. In this town, which provided its sick with a hospital and its poor with weekly alms and whose customs allowed its women six weeks in childbed, the offender met with the cruel punishment characteristic of the times. The records show us how cruel that punishment was.

The records come from the reports of prison magistrates and chaplains. The latter were exercised not so much over the crime or its expiation as that the sinner should "stammer out a psalm and die with a text on his lips." The whole book gives a sense of the callousness of the good burghers who thronged to see the execution, who could stomach the rack and the wheel, who made grim humor out of the gallows, but who forcibly resented cruelty in excess of the sentence arising from the clumsiness of the executioner. It tells volumes when it relates that malefactors fell upon their knees, gave thanks to God, and kissed the hands of the magistrates when sentenced to death by the sword rather than the hangman's noose or worse. It gives insight into the superstition of the criminal and of the society that punished him; but for all their superstition the city never gave itself over to the burning of witches.

The book is invaluable to the student of crime and punishment. It contains many remarkable reproductions of old drawings, some of them by the hand of a man who himself just escaped the hangman's axe. The translator has done us a service, not only in making the material available in limpid English, but for his restraint and lightness of touch, for which one who needs the historical material but who hates the gruesome details is grateful.

MOLLIE RAY CARROLL

GOUCHER COLLEGE

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*Law and Social Work: An Introduction to the Study of the Legal-Social Field for Social Workers* (Social Service Monographs, No. 6). By JOHN S. BRADWAY. Chicago: University of Chicago Press, 1929. Pp. xx+189. $1.50.

Several questions have been in the minds of lawyers and social workers demanding answers. These questions are: "Are other people dealing with the same or similar problems as the ones I am trying to solve?" "If so, how is their viewpoint and procedure different from mine?" "Is there any way in which those

of us who are working in related fields could work together so that the client, who holds title to all the problems, will derive more benefit?"

In the volume entitled *Law and Social Work*, Mr. Bradway shows that law has its special field and so has social work. Even so, there is a large area which Mr. Bradway calls "interstitial" which is occupied by both. The field of law lies on one side and the field of social work on the other. *Law and Social Work* is a road map for the interstitial area. It is a brave attempt to indicate the main highways in what has been up to now a no-man's-land. It takes an experienced and well-trained surveyor to carry through any such program as the foregoing. All who know Mr. Bradway agree with Reginald Heber Smith when he says in the Foreword to this volume, "I know of no member of the American bar as well qualified to write this particular book as is Mr. Bradway by reason of his experience, industry, honesty, open-mindedness, and continuing devotion to all matters centering in the legal-social field of human endeavor."

This book does not pretend to be a map of all the lanes, bypaths, and short cuts in the legal-social field, but it does show the main highways and as such is an excellent guidebook. In other words, it does not pretend to tell what the law is in each of the forty-eight different states of the Union and in the United States. It does give a description of the machinery of law and of many of the rules of law from the standpoint of the social worker.

Part I concerns itself with the philosophy of the field of legal-social relations. Here is discussed the social and legal viewpoint, the existing gap between law and social work and attempts that are being made to close the gap. Some readers will disagree with opinions expressed in Part I. Do not throw the volume in the corner on that account because Mr. Bradway is more certain of his direction in Parts II, III, and IV. After Part I is finished all social work readers can settle back for a comfortable ride for the rest of the journey under expert leadership. In Part II rules of law in general are discussed, and in Parts III and IV the machinery for administering the law and particularly the rules of law. Mr. Bradway uses language that the ordinary citizen not accustomed to technical terms can understand. One of the most puzzling things to social workers and others is "evidence" and the rules relating thereto. The chapter on "Evidence"—only eight pages—has a wealth of material and is one of the best in the book. If only two chapters could be read, I should recommend those on "Time and Formality" and "Evidence." How often have many of us been irritated by what seems to be useless formality in legal procedure and senseless rules of evidence. After reading the chapters mentioned, we shall understand better the reasons for the existence of the things we criticize and possibly change our viewpoint a little.

To summarize, the book entitled *Law and Social Work* is meant to broaden the horizon of the social workers who read it. It will. It treats subjects in which social workers are interested and shows clearly how law and lawyers can help in solving problems that have both social and legal aspects.

United Charities of Chicago Joel D. Hunter

*A History of Labor Legislation in Illinois* ("Social Science Studies," XIII). By EARL R. BECKNER. Chicago: University of Chicago Press, 1929. Pp. xiv+539. $4.00.

For those interested in "social gains through legislation" this story of the tangled course of labor legislation in Illinois will be an illuminating document. It deals with every activity in the field of labor legislation as distinguished from more comprehensive social legislation. It begins with the early struggles for the legality of labor unions and continues on down to the present time when the issues are especially injunction laws and old-age pensions. All this discussion takes place, not simply as a chronological notation, but as the exposition of the forces that have been at work to bring about the legislative enactments.

Among these forces are "the particular economic conditions, the philosophy of the time and of the courts, conditions of competition, certain fortuitous events (such as mine disasters), and the desires, interests, and prejudices of the two contending groups, the employers and the organized workers." The various elements in labor legislation dealt with, such as child labor, working hours, safety and health, workmen's compensation, and others, reveal these underlying factors as cropping out at the point of struggle in the legislature. As the author well remarks, "The legislature itself has usually been merely the locus upon which these forces impinge." As a matter of fact, most legislation, labor and otherwise, is put through under pressure, and not so much by conviction, as this story of labor legislation makes manifest.

One is impressed by the haphazard way in which legislation is sometimes passed, as, for instance, in the case in which the speaker had promised the coal operators that the Shot-Firer's bill would not pass while he was "in the chair," and who was persuaded by an intoxicated member to leave the chair temporarily so that the bill might pass and the political life of the intoxicated member might be saved since his constituents—he came from a mining district—had promised to retire him if the bill were not passed. It passed. There is a lot of "human interest stuff" in the book. It is no dry chronicle, as the foregoing indicates.

Apart from the contending forces of organized employers and organized labor one comes upon activities carried on by public-spirited citizens, Florence Kelley, Jane Addams, Ernst Freund, Samuel A. Harper, and others who are representatives of an interested public and more particularly of the social service group of the state. It is safe to say that labor legislation would not be what it now is, if it were not for the intelligent interest and activity of this company of people. How can one understand mining legislation of Illinois apart from J. E. Williams?

One commendable feature of the work that follows discussion of each field of labor legislation is a careful indication of the defects of the present laws and suggestions for a practical advance for the future. In respect to workmen's compensation there is a very concise setting out of the needed improvements in order to bring the present act to a better level of protection and of enforcement.

There is a sympathetic discussion of health insurance, leading to the conclusion that adequate health insurance can only come through compulsory state action.

One chapter deals with the old sweatshop system in the clothing trades and tells of the often-repeated and vain attempts to regulate and terminate the worst features of that system. In that tortuous story one might find support for the argument of those who discount the advantages of labor or social legislation and lay first importance upon the restraints through economic and trade-union organization. Certain it is that until the organized workers took hold of the clothing trade, legislation had failed to affect the working conditions in that industry effectively. The workers and employers have raised it since to a place of respect and dignity among the businesses of the country by abolishing the exploitations so common in the early day.

One chapter is given to the "Administration of Labor Law." The discussion is limited, however, quite definitely to the purposes of the book and deals only with the development of the administrative machinery without going into details as to the method and particular defects of operation. For the purpose of this work, such limited treatment is not to be criticized, as a book of equal size could probably be written on this subject itself. In a concluding paragraph, the author summarizes the two standing grievances of all citizens who are interested in the efficient enforcement of labor legislation. The two needs, in the language of Dr. Beckner are, "adequate appropriations for enforcing the law so that more and better inspectors may be secured, and the absolute divorcement of the administrative machinery from politics." Now, "absolute" is a strong word, especially in the region of politics where expediency plays so large a part, but until some approach is made to that condition—the non-political enforcement of labor law—the efficiency of labor legislation will be greatly hampered, nullified, and even perverted. Perhaps the next drive by those interested in labor legislation should be aimed in this direction.

JAMES MULLENBACH

CHICAGO

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*A Way of Order for Bituminous Coal.* By WALTON H. HAMILTON and HELEN R. WRIGHT. (A publication of the Institute of Economics.) New York: Macmillan Co., 1928. Pp. xiii+365. $2.50.

Why do people with a good idea find it necessary to attempt to demolish every other idea that might in any way appear as a competitor? Why are they not content to throw their idea into the arena and let it win survival by its merits? Here is a book with an ingeniously constructive plan for removing the anarchy which is the bituminous coal industry and for putting order and economy in its place. It is scientifically constructive, as well as ingenious. The plan is based on a searching analysis of the elements involved in the situation in which the industry finds itself, as well as of the trends and forces that have

changed the part that coal must play in our industrial life and that are placing new responsibilities on industry generally. And there is scientific carefulness, as well as bold experimentation in the way in which the elements in the situation are synthesized in a new order, with due regard to the trends and forces that recent industrial development has brought to light. But the authors have seen fit to precede their constructive idea by seven chapters of elaborate criticism, often captious, of the existing conditions in the coal industry and of every other idea or plan that has been proposed for remedying the evils that beset bituminous coal.

Their real contribution is buried in the eighth and ninth chapters of the book. Long before the reader reaches these chapters, he is likely to lose interest in what seems interminable criticism; and the elaborate preparation the authors think necessary to make him ready to understand their way of order may go for naught. If he does wade through it, he will be awakened and stimulated by the plan itself and the brilliant way in which the parts have been constructed and fastened together; but he is likely to despair again when he reaches the over-elaborate criticism of their own proposals in the succeeding chapters.

Had the authors seen fit to present their way of order in the opening chapters of the book, and had they been content with summary statements of its weaknesses and the weaknesses of other proposals, more might have been heard of their plan. The public interest that their recommendations deserve might have been aroused; and editors, coal-operators, trade unions, and people generally might have had something fundamental to discuss as a remedy for the sickness of the coal industry. As it is, their book is likely to be just one more academic treatise on library shelves.

The basis of the authors' plan is monopoly, not so much of the actual mining as of the sale of coal. A Federal Bituminous Coal Company is to be incorporated by the national government. This company is to acquire the various coal mines now in operation, by exchanging its own "debentures," paying a rate of 5 per cent interest on their face values, for the stock or other evidences of ownership of mining property. The debentures will carry with them no rights of control over the new company. Control is to be lodged in the hands of consumers of coal and mine-workers, aided by a staff of experts and technicians. Investors will have no voting rights; they will be guaranteed a definite rate of return which is to be a first charge on the industry. The voting stock of the corporation, on the other hand, is to pay no dividends and will be non-transferrable. Those who have no interest in the industry except to get income from investments will thus have their rights limited to getting this income, while the consumers who are dependent on coal, and the workers who get their living from coal will be charged with the operation of the industry.

The method of lodging control in those who have a direct interest in coal rather than in profit-making from coal is ingeniously worked out. There are to be 154 shares of the voting, non-transferrable, and non-dividend-paying stock.

These are to be divided into 110 shares of Class A stock and 44 shares of Class B stock. The Class A stock will be divided equally between those who represent consumers and those who represent mine-workers, 55 shares being assigned to each. The 44 shares of Class B stock are to be put into the hands of the administrative and technical officials of the industry. These various stocks are not to be intrusted to individuals; they are to be held by trade associations, labor organizations, and professional associations. Since 90 per cent of the coal is used by railroads, public utilities, and various manufacturing industries and exporters, trade associations of these groups will hold most of the consumers' shares of stock, while the domestic consumers will have their shares held in trust by the president of the United States. The shares are to be distributed among various groups in proportion to the amount of coal they consume, and a redistribution will be made from time to time, corresponding to changes in consumption. The 55 shares of the mine-workers are to be handed over to a labor organization which is to represent them, and the 44 shares of Class B stock will be held in trust by an association of the technical and administrative staff of the industry.

A Board of Directors of fifteen members will formulate policies and administer the affairs of the Federal Bituminous Coal Corporation. It is in the functioning of this Board that the significance of the difference between Class A and Class B stock appears. This difference has nothing to do with character or security of dividends. None of the stock pays dividends. Both classes of stock are designed primarily to provide voting power for election of directors. Every 11 shares are entitled to elect one director. Thus the consumers' 55 shares will elect five directors, and the wage-earners' shares will elect an equal number. These ten directors will be the only ones who will have voting power in the board. The 44 shares of Class B stock will entitle the technical staff to elect four additional directors, but these will have no power to vote. Neither will the president of the corporation have a vote. He is to be chosen by the fourteen from without their number, thus completing the Board of fifteen. Power to make decisions is to be limited to the ten members representing consumers and wage-earners. The others are to act as advisers only; to supply information and to assist in carrying out the policies that the other ten have decided upon. Representation on the Board, it is to be noted, is not based on numbers but on function. Consumers, workers, and technical staff are equally represented.

The investors are out of the picture. They are guaranteed a fixed return on their capital and have no share in managing the industry or in determining prices, wages, or policies. These basic questions are to be settled by collective bargaining between the consumers who need coal and mine-workers who get a living from coal, through the five representatives that each of these has on the Board of Directors. The Board is to be, therefore, an agency of collective bargaining, as well as a managing directorate of a monopolistic corporation. The addition of the representatives of the technical staff converts the two groups of bargainers into a policy-making and administrative body.

The key to the arrangements under which coal is to be mined and delivered is "the great bargain." This is an elaborate understanding relating to all the conditions of production and delivery between those who furnish the coal and those who must pay for it. It is a contract by which one party exchanges with another the wherewithal of heat and power for the means of living; its terms represent to one group a high or low expense of production, to the other how much or how little they may have of the good things of life. The presence upon the board of directors of an equal number of repretentatives of the users of coal and of its producers makes possible the collective agreement. The presence there of technicians and managers enables the directorate to convert the agreement between the high contracting parties into a policy for the industry [p. 194].

This, then, is the way of order for bituminous coal. It would substitute deliberate planning and conscious control as means of securing proper functioning of the industry, in place of the free play of competitive profit-making. The mechanisms of competition and the stimulus of profit-making, which worked well enough to adjust a host of small mining operations to local demands when coal was a petty trade, have let the industry run wild since coal has become the basis of the mechanical power that runs the whole modern industrial system. The breakdown of the bituminous coal industry cannot be better summarized than in the words of the authors:

The plain truth of the matter is that the mechanisms of the competitive system no longer work in the bituminous coal industry. The expenses of production wax and wane as of old, but no longer can low costs be depended on to guide operators in expansion and high costs to ring the knell of business failure for wasteful enterprises. The prices of coal advance and decline, as all well-behaved prices are supposed to do; but advances and declines are not followed by an accommodation of an economic industry to the demands made upon it. Prices are here no "beacon" to guide production; costs no "brake" upon reckless enterprise; and, still further to mix metaphors, the system of prices has ceased to be the "governor" of the industry. The purposive competition of a petty trade is one thing, the aimless competition of the bituminous maleconomy quite another [p. 16].

In contrast with this, the organization of bituminous mining under a single corporate control, as outlined in the book, provides an opportunity for the articulation of the tasks that we expect the industry to perform.

With those who know the situation in general to advise, and with those who know it in detail to execute, the directors may convert a sprawling mass of unseemly mines into something that may, in lieu of a better, pass as a useful instrument for the mining of coal. . . . . The corporate form of organization makes it possible to substitute the direction of planning and control for the indirection of leaving survival to the market and bankruptcy. The responsibility of the directorate to consumers and workers who demand cheaper coal and higher wages puts it under strong and persistent pressure to use good mines rather than poor ones. . . . . A substitution of direct planning for the indirection of bankruptcy should give a far closer approximation to the ideal of an orderly and efficient instrument of production [pp. 187–88].

It is a pity that in leading the reader to this promising way of order for the industry the authors saw fit to drag him through so many dreary byways

that he is likely to have little interest and energy left to explore its excellent possibilities.

WILLIAM M. LEISERSON

ANTIOCH COLLEGE

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*Civic Training in Soviet Russia.* By SAMUEL N. HARPER. Chicago: University of Chicago Press, 1929. Pp. xvii+401. $3.00.

This excellently printed, impressive volume is one of a series of similar analyses in preparation under the editorship of Professor Charles E. Merriam, of the University of Chicago. The further studies include an examination of the mechanisms and forces for the training of citizens in such divergent states as Great Britain, Italy, and the United States, and will be crowned with a book on *Comparative Civic Education* by Professor Merriam himself. The whole series of ten volumes, if done with the thoroughness and scholarliness of Professor Harper, should provide a notable addition to the literature of political economy.

The publishers, on the cover, describe the Soviet state as "one of the most comprehensive and self-conscious systems for making citizens that the world has ever known, . . . . a superlative manipulation of the elements of political control." Superlatives seem inevitable and essential in dealing with anything Russian since 1917. Certainly one rises from the reading of this book with the feeling that they are not misused in this case. In a thoroughly comprehensive treatment, Mr. Harper shows how every agency of the highly centralized and omnioperative government is designed to produce conscious, active citizens of the Soviet state and of the larger international movement of workers. Not alone the activities of the Communist party and Communist youth, but the press, the trade-unions, the museums, schools, literature, stage, radio, music, movies—all are saturated with more or less direct education or training for this citizenship.

Perhaps the most remarkable things about this civic training are its revolutionary nature and its centralized consciously directed plans. These are not the activities of privately constitued purveyors of patriotism. The civic-mindedness of youth and the civic righteousness of maturity are not left to the D.A.R.'s and Legionnaires of Russia, but are directed in the end by official organs of the state, though voluntary agencies may be used as mechanisms. Furthermore, this new civic being is being carved and blasted out of a diametrically different background and heritage. A whole generation is being trained to think, will, and act in a manner contrary to the rest of their contemporary world.

Mr. Harper sees clearly and analyzes the enormous difficulties involved in such a task. These are some of them: How can Western ideas of industrialism be imported and absorbed without bringing in at the same time capitalistic ideas of property and state? How maintain adequate defense and define national foes without creating war fear? How maintain racial and national cultures and semi-independence among minorities without weakening the union? And, similarly, how create an international mind while picturing isolation and a ring of foes?

As to the efficacy of this civic training, Mr. Harper defers judgment until this generation under training shall have come into active participation in the larger affairs of state. That time will not long be deferred. Children who were ten years old at the time of the revolution are young men and women today. Another decade will see them filling stations of influence and importance. If the generation in power can continue to demonstrate success not only in maintaining this power but in producing increased wealth and comfort, there can be little doubt as to the surviving value of the civic doctrines they are propagating. At the same time the promulgation and acceptance of the new ideology will vastly enhance the possibility of economic progress. The two are inextricably bound together.

On the side of technique one finds rather frequent evidence in Russia, as Mr. Harper suggests, that overfeeding in civic training of the more overt kind may lead to regurgitation. This is particularly true in the case of literature and the stage, and there is already a more deft and subtle touch noticeable in these fields. This is also true of the indoctrination of younger children in the school system.

Not the least commendable feature of the book is the abstracted restraint and fairness of the author. The most careful reader would find difficulty in detecting any bias in the judicial and balanced statements of fact which Mr. Harper has made the backbone of his study. It seems to me that he has fairly presented the ideology of the Communists of Russia and accurately described the mechanisms by which they are seeking to make them universal in the land of the Soviets.

KARL BORDERS

CHICAGO COMMONS

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*Life under the Soviets.* By ALEXANDER WICKSTEED. With an Introduction by BEATRICE WEBB. London: John Lane, 1928. Pp. xvii+196. *6s. 5d.*

When the final appraisal of literature on the Russian Revolution is made a century or so later, it may very well prove this intimate sort of browsing and tasting with which Mr. Wicksteed has presented us of greater historical value than most of the ephemeral judgments marking the flood of writings about Russia today. When most of the prophecies and conclusions of the seers have been proved false and have been discarded along with the books that gave them currency, our grandchildren will still want to know what the Muscovites ate, how they played and lived and traveled in the days after the Revolution. Moreover, they will be interested in "how it strikes a contemporary" Englishman.

I knew Mr. Wicksteed in the days of famine. We attended the same joint conferences of English and American Quakers, where we sat over tea and biscuit and talked life and death in terms of cocoa and corn. Wicksteed usually sat on the fringe of the group and smoked an interminable pipe. When the rest of

us had volubly delivered ourselves of our opinions and thought we had the matter pretty well settled, he would emerge from his cloak of silence and cloud of smoke to make a few remarks. So he came to be regarded among the Americans as the "fireside philosopher."

This is the spirit of his unpretentious book. He has gone poking about in all corners of Moscow and much of the countryside as a mere citizen, and describes and comments on what he has seen in a light and sometimes deft manner. He talks of restaurants and waiters, habits of drinking, crowds at the theaters, his own reactions to concerts, and all the sorts of things a contented participant sips and savors as he shares the life of a country.

The distinguished Beatrice Webb, who writes the Introduction, apparently through regard for Mr. Wicksteed's distinguished father, demurs and is somewhat shocked at the author's definition of the fine freedom of Russia. "My idea of a free country," he says, "is one in which you can earn your living otherwise than as a manual laborer without having to wear a collar and tie, and where you can get up and go to bed when you want to and not when other people think you ought to." Mr. Wicksteed is a teacher of English in one of the Moscow universities, and I met a young Russian pupil of his last summer who felt that he might profit by a little more attention to his blouse. Both of which opinions the Communists would regard as utterly irrelevant if not flippant.

To one contemplating a trip to Russia the book affords many valuable hints and to him who has been, many pleasant reminders of the country.

K. B.

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*Fürsorgerecht.* By Dr. Hans Muthesius. Berlin: Verlag von Julius Springer, 1928. Pp. 184. M. 8. 60.

This book by a city councilor of Berlin, a friend of social workers and the author of *Wohlfahrtspflege*, gives the legal bases of the recent Federal Welfare Regulations and Federal Child Welfare Law of Germany, the provisions of these laws, in brief, and the administrative machinery for carrying them out. Then follows discussion of the rights of the applicant, his status, his family duties, his relations to social insurance, and his obligation to work. Finally the author treats the relationship of public assistance to private relief. There is a good bibliography. The book is excellent for understanding German welfare legislation.

M. R. C.

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*Die erwerbstätige Jugend.* By Dr. Bernhard Mewes. Berlin and Leipzig: Walter de Gruyter & Co., 1929. Pp. 202. M. 8.

This statistical presentation of the condition of juveniles in Germany was made by the head of the statistical division of the Youth Movement Exhibition held in Berlin in 1927. All sorts of organizations of and for youth and the na-

tional and state governments co-operated in the exhibition. The book, therefore, represents a selection of the material assembled for the exhibition. The first section deals with the living conditions of juveniles of working age. It gives the estimated juvenile population of Germany from 1928 to 1938 and the effects of the reduced war-time birth-rate upon the future population. It follows with data on their health, their living and their working conditions, their holidays, and their leisure time. Under the living conditions is shown the crowded housing arrangements for many juvenile workers, in common with the entire German population. Data on working conditions include occupational classification, apprenticeship and other trade training, hours and overtime, and wages. Conditions are shown to be particularly undesirable in small firms, wages being low and hours long.

The second part deals with national, state, and local public and private child-caring agencies and institutions. It includes the youth movement organizations. The book brings together in convenient form statistics previously collected and published separately, giving in this way a picture of the conditions of German youth and provisions for them not hitherto presented as a whole.

M. R. C.

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*Emily Davies and Girton College.* By LADY STEPHEN. London: Constable & Co., 1927. Pp. xi+387. 21*s.*

*Emma Willard: Daughter of Democracy.* By ALMA LUTZ. Boston and New York: Houghton Mifflin Co., 1929. Pp. viii+291. $4.00.

Lady Stephen writes a more complete compendium of the efforts made in England since 1860 to improve the position of women than the title indicates. Emily Davies was a close personal friend of Elizabeth Garrett, the first English woman to practice medicine, and in 1883 dean of the London School of Medicine for Women. Miss Davies participated in all her friend's struggles, incredible as they may seem today, to gain a medical education. She even prepared a paper in 1862 on "Medicine as a Profession for Women" for the National Association for the Promotion of Social Science, which was read for her by Mr. Russell Gurney, as it was unusual for a woman to appear in public as a speaker. She took an active part in the first organized movement in behalf of women, which was set on foot in 1858 as the *Englishwoman's Journal*, and in this way a close friendship was started with Madame Bodichon, who may well be counted co-founder with Emily Davies of Girton College.

Miss Davies and Miss Garrett were the first women elected to the London School Board (1870). These and similar activities impressed upon Miss Davies' mind the importance of securing better educational opportunities for women. The story of her efforts should be read by every woman of the present generation. It is easy to accept the privileges that young women now have without

giving a thought to the life-blood of an earlier generation that was spent in securing them. The social worker, too, may find much that is illuminating in this record. One striking lesson to be learned is that there may be different roads to the same goal. Miss Davies made a valiant fight for the same educational program for women as was acceptable for men, and she never flinched from this ideal. At the same time another group headed by Henry Sidgwick and Miss A. J. Clough had as their aim the improvement of women's education regardless of the methods pursued for men. Both sides wanted women to have higher education. Both sides helped secure their end, and Girton and Newnham Colleges stand as the mark of their triumph after years and decades of failure after failure of their hopes and dreams.

Another source of comfort and encouragement to the social worker may be found in the contrasting pictures which the book offers of the condition of women's education in England at the beginning and at the close of Miss Davies' activities in the educational field. The change seems incredible, and yet forty years is but as a day in the counting of time.

Although Emma Willard was not a social worker, but an educator, the record of her life offers many suggestions and much encouragement to those whose dreams are for social betterment and who may falter in their efforts to bring it about because of the difficulties they meet and the slow progress they make.

Mrs. Willard's life was devoted primarily to improving the education of women. Born in 1787, when "female education," as it was then called, was at a very low ebb if not practically nonexistent, she began the study of geometry at the age of twelve, drawing geometrical figures on the white Connecticut marble hearth and teaching herself. From that time on she devoted herself to studies which were considered both unladylike and menacing to the welfare of the race, so that she might herself as a teacher lead her pupils in their studies and understand the steps necessary to broaden and enlarge the educational opportunities for women. In 1818 she sent her "Plan for Improving Female Education" to Governor DeWitt Clinton, of New York, and received an encouraging reply from him. The following year she presented it to the New York legislature, and in disseminating her views was probably the first woman lobbyist. Her definition of education read, "Education should seek to bring its subjects to the perfection of their moral, intellectual and physical nature, in order that they may be of greatest possible use to themselves and others; or, to use a different expression, that they may be the means of the greatest possible happiness of which they are capable, both as to what they enjoy and what they communicate." Her plan proved premature and met with both opposition and ridicule. Finally an act was passed granting a charter to the "Waterford Academy for Young Ladies," said to be the first legislative measure recognizing woman's rights to higher education, but the legislature refused the indorsement that she urged. Her "Plan," which has been called "the Magna Charta of the rights of woman in matters of education," laid the foundation upon which every woman's

college and higher educational institution to which women are admitted may now be said to rest. Effort followed effort, and in 1821 Troy Female Seminary was established and granted financial aid by the Common Council of Troy. Here she continued to advance the cause which was so dear to her, bravely meeting difficulties which a century later can hardly be credited.

The author of this biography does not hesitate to bring into sharp relief with Mrs. Willard's progressive and even radical views on education her very conservative attitude with regard to interest by women in political affairs and the abolition of slavery. Miss Lutz also explains her failure to co-operate with the band of valiant women who labored for a still larger field of usefulness for women than she had in mind. In striking contrast with her conservatism with regard to abolition, temperance, and political subjects was her zeal for world-peace. As early as 1820 she published a plan under the title, "Universal Peace To Be Introduced by a Confederacy of Nations Meeting at Jerusalem," but she did not dare advance this first effort except as a work of imagination. In 1864, however, she published another peace plan, which she called "Universal Peace," and suggested that the nations of the world form a permanent judicial tribunal to which by mutual consent their disputes might be referred, and again she chose Jerusalem as the seat of this tribunal.

The fruition of her plans for the education of women and for promoting world-peace which recent years have seen proves the truth of the belief that "ideals work when men work toward them" and gives ground for confidence that well-considered plans for social betterment will also come to fruition.

Naturally the author treats of many other aspects of Mrs. Willard's career and in a discriminating manner gives a vivid picture of her extraordinary personality. Miss Lutz has performed a real service in preparing this volume.

Very much to the point for the readers of these two volumes is Virginia Woolf's scathing description in *A Room of One's Own* of the way in which men poured out gold and silver from coffers and chests and purses to found the great universities, and women raked and scraped to get together a few thousand pounds to rear brick walls for colleges and "had to postpone the amenities."

MARION TALBOT

UNIVERSITY OF CHICAGO

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*The Visiting Teacher at Work.* By JANE F. CULBERT. New York: The Commonwealth Fund, Division of Publications, 1929. Pp. xv+235. $1.50.

Because of the limited literature on the subject, one opens with anticipation a new book on the visiting teacher, especially when written by a recognized authority in the practical field.

The book is the result of much accumulated wisdom: some of it is derived from the experiences of visiting teachers, who worked for three-year periods in thirty widely scattered communities as part of the Commonwealth Fund's

program for the prevention of delinquency; other of it comes from the experience of the National Committee itself in its field advisory service and in its observation of visiting teachers generally. In Part I Miss Culbert describes "Work with the Child"; in Part II she discusses "Professional Standards and Relationships."

Using concrete situations in which the visiting teacher finds herself, illustrating by specific incidents or case summaries, recording at times excerpts from the case records, the author tells in a non-technical manner how the visiting teacher gathers her information about the child and how she assists in his adjustment. This adjustment, concretely illustrated, may be the result of the child adjusting himself more understandingly to the school or the school being modified to fit the individual child.

The author considers "Home Situations" and later "Community Factors," which hinder or aid the adjustment of the child. One is impressed, as in the earlier section on "The School and the Child," with the effect which the author has achieved of making one see the visiting teacher actually at work on her job. She has accomplished in this respect what one could only get from viewing the visiting teacher in her very subtle relationships with the child or with the parents, from the vantage point of an unobserved position behind a screen.

In this first part reference is made throughout to a study made by the National Committee of 8,500 cases, handled by visiting teachers in the demonstration centers. One regrets that more information is not given concerning the extent and nature of the study. Statistics based on the study are used. The frequency with which "adverse" and "helpful" factors occur in the children themselves is enumerated, as well as "unfavorable" and "favorable" factors in the school, and "liabilities" and "assets" in the home situation. The fact that there is an attempt to analyze the factors which build up or break down the situations leading to the adjustment of the child is hopeful. But it is lamentable that we have not as yet attempted a more scientifically objective approach to the analysis than is exhibited in the enumerations. For example, under school factors are listed "unsympathetic teacher," "indifferent teacher," "unco-operative principal," "good disciplinary methods," and under liabilities and assets in home situations the frequency is enumerated of "over-ambitious parents," "too indulgent parents," "too severe parents," "lack of harmony" in the home. When can a teacher be classified as unsympathetic, or a principal as uncooperative, or a parent as too indulgent? An evaluation of qualities depending upon subjective reactions is hazardous to the growth of any technique.

Part II, on "Professional Standards and Relationships," contains in chapter iv friendly suggestions for the visiting teacher in getting acquainted with the school situations and in her working relationships with the principal, classroom teacher, psychologist, attendance officer, school nurse, vocational counselor, and other specialists. Chapter v on "Supervision and Administration" answers some of the questions asked by superintendents when initiating the work. While the chapter on "Recording and Interpreting the Work" contains little new, it is

of value as describing the necessary part of the work to responsible administrators, not familiar with case work technique. It is encouraging to have Miss Culbert lay stress on the value of efficient case work as the best advertisement of the service.

The sixty-five pages of appendixes contain the visiting teacher case record forms, used by the National Committee; sample case records; monthly report blanks; letters and announcements, used in presenting the work in schools; sample daily time schedules of visiting teachers; an annual report of a visiting teacher to a superintendent of schools; sample copies of posters; and a bulletin. The bibliographies on the visiting teacher work and on allied subjects are unusually full.

One is impressed throughout with the author's familiarity with modern classroom devices and technique, based upon recent educational psychology, with the mental hygiene approach, and with the philosophy underlying modern educational practice. Writing from her wide and rich experience, Miss Culbert has prepared a book of undoubted usefulness to school officials contemplating the introduction of visiting teacher service; to persons questioning the desirability of the work of the visiting teacher as a possible vocation for themselves; and to visiting teachers in isolated communities, who need the advice and accumulated wisdom of someone long familiar with the work.

FLORENCE E. CLARK

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*Liberty in the Modern World.* By GEORGE BRYAN LOGAN, JR. Chapel Hill: University of North Carolina Press, 1929. Pp. v+142. $2.00.

We have here nine brief essays on liberty in its various relations: "The Meaning of Liberty," "Liberty and Law," "Liberty of Thought and Expression," "Liberty and Government," "Liberty and Work," "The Historic Setting," "Liberty and Science," "Liberty and Humanism," and "Liberty and Religion." They are written in an ennobled style, but have reference on the whole to concrete rather than formal freedom. Liberty is conceived as dependent upon social support and economic welfare; but it is thought of as reaching from this humanistic base to a religious summit. But for the latter implication the essays reflect more the liberal English, the guild Socialistic, point of view. The essays are published, so we are led to suppose by the Foreword, as much out of personal devotion on the part of those who knew the author as out of respect for the content. But divorced from the author's life and from his death following injury in the service of his country, the essays still breathe a spirit that is not without its utility in contemporary America.

T. V. SMITH

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## BRIEF NOTICES

*The Poor Law Statutes Consolidated.* By HERBERT DAVEY. London: Stevens & Sons, Ltd., 1928. Pp. xxxvi+463. 25*s.*

This carefully annotated edition of the Poor Law Act, 1927 (17 & 18 Geo. V,c. 14), is not only a useful work of reference to the students of poor-law problems, but it serves also to describe the immensely complicated superstructure that has been erected in the last three hundred years on the Elizabethan Poor Law of 1801. The law of 1927 was quite properly called an act "to consolidate the enactments relating to the Relief of the Poor." What were these acts? Altogether there are exactly ninety-three statutes, listed on pages 297–302, that were repealed entirely or in part by the act of 1927. Four acts of the seventeenth century, two of which were not entirely repealed; nine acts of the eighteenth century, all but two of which were entirely repealed; seventy-five acts belonging to the nineteenth century and eleven to the twentieth century were affected by the act of 1927.

A useful Appendix of Statutes (pp. 305–409) should also be noted. This Appendix includes, for example, the Poor Relief (Deserted Wives and Children) Act of 1718, the Vagrancy Act of 1824, the famous "Poor Law Amendment" Act of 1834, various "Poor Removal" acts (of 1845, 1847, 1861, 1863, and 1900), the more modern children's acts, and the unemployment and health-insurance acts into which certain parts of the old poor-law have developed. Altogether this is an extremely useful book.

E. A.

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*The Cornish Miner.* By A. K. HAMILTON JENKIN. London: Allen & Unwin, 1927. Pp. 351. 12*s.* 6*d.*

This is an account of the life and work of the Cornish miner from the earliest times for which records are available down to the present. It describes the technical development of the industry as well as the conditions of work underground, and the social and living conditions above ground in the mining communities of Cornwall. The relation of tin mining to the industrial development of Great Britain is traced in a manner to bring out not only the part that the production of tin has played in this development, but also the character of man that the mining of tin has fashioned. The book is a valuable and readable contribution to the study of the industrial and social history of Great Britain.

W. M. L.

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*Child Labor.* Edited by GERTRUDE FOLKS ZIMAND. (National Child Labor Committee Pub. No. 352.) New York, 1929. Pp. 39.

This little pamphlet is a series of articles dealing with child labor in its relation to education, physical and mental health, and recreation of children, and to

parental education and the development of proper standards of living. The writers of these articles point out the various needs of children and the great deprivations of those going early into industry.

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*Economic History of Europe in Modern Times.* By MELVIN M. KNIGHT, H. E. BARNES, and FELIX FLÜGEL. Boston: Houghton Mifflin Co. 1928. Pp. 813. $4.50.

This well-written textbook, which is a sort of companion volume to Professor Melvin Knight's *Economic History of Europe to the End of the Middle Ages*, brought out three years ago by the same publishers, will be useful not only to the student but to the general reader. Beginning with the great overseas discoveries that marked the beginning of European expansion, the writers proceed in the third chapter to the Industrial Revolution and follow with a chapter on the factory system. The remaining chapters deal with the nineteenth century, with special chapters on the agricultural development of Germany and England since 1800 and of France since 1789. Similarly, the growth of industry in each of these countries is dealt with. The late Professor Allyn Abbott Young wrote an interesting Editor's Introduction, in which he pointed out that the authors have provided an economic history "not merely of different European countries but of Europe," for the different subjects dealt with are carefully welded together. In order to secure a uniform presentation Professor Melvin Knight, of Columbia University, one of the collaborators, was intrusted with the work of general revision.

The economic history of the nineteenth century is rich in interesting materials of varied character—"an account of changing forms of economic activity, of alterations of the economic structure of society, and of the emerging of new economic problems." The economic problems of England vary, of course, from those of Germany; and both are very different from the problems of the Balkan states. Russia and the southern and eastern European countries like Roumania and Italy are very successfully dealt with, considering all the difficulties involved. Each chapter is followed by a set of well-chosen references called "suggestions for further reading," which range from one to five pages in length.

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*Mediaeval Cheshire: An Economic and Social History of Cheshire in the Reigns of the Three Edwards.* By H. J. HEWITT. Manchester: Manchester University Press, 1929. Pp. xxiv+212. 21*s*.

This scholarly volume in the University of Manchester's "Economic History Series" is published in co-operation with the Chetham Society for the Publication of Historical and Literary Remains connected with the Palatine counties of Lancaster and Chester. The book contains some beautiful illustra-

tions and maps and a series of eight valuable Appendixes, including an interesting discussion of mortality in Cheshire during the Black Death.

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*The Nurse in Public Health.* By MARY BEARD, R.N. New York: Harper & Bros., 1929. Pp. ix+217. $3.50.

The author of this recent volume in the useful "Public Health Series" edited by Dr. Allan J. McLaughlin is the assistant director of the division of medical education of the Rockefeller Foundation. The seven chapters of the book include a wide variety of topics as "The Rural Community," "Some Aspects of Public Health Nursing Administration," "Public Health Nursing in Europe," "Maternal Care in England and Denmark," and "Education of the Public Health Nurse." Miss Beard has written for administrators and instructors of public health nursing organizations, for lay boards of directors of these associations, for trustees of hospitals and others responsible for nursing schools, and for state and county health officers—sharing the experience and observations of twenty-five years of continuous association with the remarkable development of the public health nursing service.

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*England in the Nineteenth Century, 1801–1805.* By A. F. FREMANTLE. New York: Macmillan, 1929. Pp. 555. $5.50.

This is the first volume of what promises to be an interesting and valuable historical narrative. Two hundred pages are devoted to English life at the close of the eighteenth century and picture the early effects of the industrial revolution—the effects of machinery on the status of the cotton weavers, the condition of the cotton spinners, the misery of the laboring children, the overcrowded and insanitary prisons and hulks, the other brutal punishments—public whippings, pounds, pillories, and stocks. At this time neither national or local public authorities spent a penny upon public instruction, and the principal branch of local government was the poor law. In the monumental task of providing workhouses for the destitute, the England of the eighteenth century had completely failed. The soaring poor rates that accompanied the Speenhamland system reached again and again to new high levels.

The first third of the book will be interesting to social workers, but the later chapters deal largely with military and political affairs. There are no footnotes, but approximately fifty pages at the close of the book are devoted to bibliographies.

# PUBLIC DOCUMENTS

*Seventy-sixth Report of the Charity Commissioners for England and Wales: Report of Proceedings during 1928* (Cmd. 3320). London: H. M. Stationery Office, 1929. Pp. 31. 6*d*.

The *Seventy-sixth Report of the Charity Commissioners for England and Wales* calls to mind the long period of distinguished service that this body has rendered since its establishment in 1853. The agitation for an administrative authority with power to regulate charities dates back as far as 1786, when a Committee of the House of Commons reported on the subject. To Lord Brougham, however, must be given credit for having brought the problem before the country in a way that was destined to leave a permanent impress and to induce somewhat later the legislation that created the Commission.

Lord Brougham's interest in enlarging educational opportunities for the poor prompted him to secure in 1816 the appointment of a Committee to inquire into the administration of educational charities. The facts unearthed by this investigation convinced him of the need of a parliamentary Commission to determine the number and character of existing endowments and to ascertain the extent to which these funds were being misapplied. Although he desired the investigation to extend to all types of charities, his proposal met with opposition; and the scope of the inquiry ultimately intrusted to the Commission was limited to the educational charities only, from which were exempted the two universities and certain other specified institutions.

When the creation of the Commission was under debate, the chief argument against it was that a remedy already existed to correct abuses in the management of charitable trusts. The "sacred rights of property" should be inviolate, it was urged, and the statute of charitable uses provided through the courts a means of relief against misapplication of the trusts. In reply to this claim, Lord Brougham pointed out that only three times in half a century had the Court of Chancery been asked to intervene, and that the sole cause brought to the court within the preceding thirty years had been pending without a decision for approximately three decades.

Lord Brougham's view that, for the regulation of charities, a less formal procedure should supplant the machinery provided by the courts was in accord with a trend that characterized much of the legislative and judicial thinking of the nineteenth century, both in England and in this country, and that continues to the present day. The Interstate Commerce Commission, the Federal Trade Commission, and, in state government, the licensing powers of boards of child welfare are familiar manifestations of this tendency to create bodies of experts

endowed with quasi-judicial powers that formerly resided, if at all, in courts of chancery.

The belief that there should be an administrative board to regulate charities was destined, however, to receive slow acceptance. Although the monumental report in thirty-eight folio volumes issued by the charity commissioners appointed in 1819 is a landmark in the history of philanthropy, it did not lead immediately to the reforms sought by Lord Brougham. Acting upon the report, a Select Committee of the House of Commons in 1835 advocated the establishment of a permanent board with power to inquire into the management of trusts, to compel the production of accounts, to secure the safe custody of charity property, and to adapt the funds *cy pres* to new uses. A similar recommendation was brought forward fourteen years later, in 1849, but the first Charitable Trusts Act was not passed until 1853. This act, the provisions of which were somewhat amended by a second act passed in 1860, authorized the appointment of a board to be known as "The Charity Commissioners for England and Wales."

The present report illustrates the importance of the functions which the commissioners are called upon to perform. Among the 488 schemes worked out under their direction during 1928, the one with regard to the almshouses of Winchester may be cited as indicative of the rôle played by the Commission in adapting ancient benefactions to contemporary needs.

The scheme calls for the fusion under one management of St. John's Hospital and Allied Charities with the venerable hospital of St. Mary Magdalen. The latter institution is said to have been founded near the close of the twelfth century, and St. John's Hospital is described in a charter issued by Elizabeth in 1588 as "a foundation that has existed beyond the memory of man." In their long histories both have been recipients of numerous benefactions that with each succeeding generation have become more difficult to apply. The present scheme makes provision for selection of one body of trustees to manage the combined revenues and lays down regulations to govern their meetings and proceedings. An accompanying schedule lists the properties appertaining to these charities, with the names of their present tenants, the terminal dates of existing leases, and the gross annual income of each.

This schedule is in itself convincing proof of the need of a central authority to guide local trustees in the complex problems of management that have resulted from generations of gifts and bequests by pious benefactors. The number of rental properties belonging to St. John's Hospital and the Allied Charities, for example, reaches a total of 111, and there are in addition 12 investments in securities. The property of the Hospital of St. Mary Magdalen consists of 8 parcels of real estate, 4 yearly annuities, and 2 blocks of stock.

Under the scheme worked out by the commissioners the income from all these sources will be divided between an Eleemosynary Branch of the new organization and an Advancement in Life Branch. The latter will receive only a small portion of the benefits—doubtless the revenue from property left long

ago for payment of fees for the binding out of poor boys as apprentices, once a very popular type of benefaction.

All remaining revenues will accrue to the Eleemosynary Branch, and careful regulations are laid down to guide their disbursement. An effort has obviously been made to conform as closely as possible with the wishes of the original testators, as, for example, in continuing such provisions as the payment of a fixed annual fee "to the officiating minister of the United Parishes of St. Maurice, St. Mary Kalendar, and St. Peter Colebrook in the City of Winchester, for preaching a sermon in the church of the said United Parishes on All Saints Day."

The scheme provides that persons in receipt of poor law relief other than medical relief are not eligible for care in the almshouses of these foundations. The stipends payable to the almspeople are fixed within limits that make it possible to adjust them to individual needs and to changing circumstances. The trustees are empowered, at their discretion, to convert one of the almshouses into a sanatorium and to employ a medical officer. Moreover, certain case work principles are given recognition. The payments to annuitants need not be in cash, but, in the judgment of the trustees, may be expended for their benefit. Case records of charity organization societies and similar bodies may be consulted in determining the eligibility of those applying for benefits. All these are provisions that could not have been operative without a continuing central board capable of making administrative decisions on the basis of changing conditions and needs. Moreover, the present scheme is not necessarily final. If the experience of a few years reveals defects in the new plan, the commissioners will be free to amend it.

Those who would impute undue conservatism to the commissioners in retreating so slowly from provisions now cumbersome or absurd that were laid down by testators long since dead must remember that responsibilities partaking of a judicial character rest upon them, and that slow and cautious evolution has been one of the most prized attributes of English law. Moreover, the services of the commissioners have so thoroughly justified the trust imposed upon them that few could be disposed to condemn them for refusing to embrace precipitately current views of social treatment that have not yet proved their right to be regarded as established doctrines.

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*Prison Industries* (U.S. Department of Commerce, Bureau of Foreign and Domestic Commerce, Domestic Commerce Series, No. 27). Washington, D.C.: Government Printing Office, 1929. Pp. xi+132. $0.20.

The prison is an insoluble problem. It is perhaps a problem that will find its solution only in its abolition and in the substitution of a totally different kind

of institution or agency in which the motive power will be the purpose to treat and cure instead of to punish and to reform. Among the factors in prison administration none more irritatingly refuses to be resolved into a solution than that of prison labor and the product of prison industry. The dilemma is so obvious and so irreconcilable! Prisoners must work, otherwise like the rest of the world they rot and call for the undertaker. Moreover, they and their support are costly, and if they do not work they leave the institution more completely demoralized, less fit for life in the community, more sure to return than when they were first committed. But if they work there are many disastrous consequences, and among those concerned are both the employers of prison labor and the employers of free labor, and organized labor itself, as well as public-spirited citizens.

Since the marketing of prison goods is a matter of concern to the business interests of the nation it was both natural and suitable that the Secretary of Commerce (Mr. Hoover) should ask representatives of the business world, of organized labor, of women's organizations, and of the correctional group in the public-welfare field to come together and to advise him and the country on the question. This report is the result of such a conference held December 3, 1924. At that conference an advisory committee was asked to co-operate with the Department of Commerce in making a study. It was intended to be a statement of fact, to bring out "arguments regarding each of the methods of conducting prison industries." The Department has avoided taking sides in any issue and gives its indorsement to none of the views expressed or quoted. The Statement of the Committee signed by eighteen persons among whom were: Mrs. John F. Sippel, president, General Federation of Women's Clubs; William Green, president, American Federation of Labor; John J. Manning secretary-treasurer, Union Label Trades Department, American Federation of Labor; William Butterworth, president, United States Chamber of Commerce; E. W. McCullough, manager, Department of Manufacture, Chamber of Commerce of the United States; William J. Ellis, commissioner, Department of Institutions and Agencies, State of New Jersey; S. F. Dribben, director, Association of Cotton Textile Merchants in New York; E. E. Little, director, Eastern Broom Manufacturers and Supply Dealers' Association; and E. S. Simpson, International Harvester Co., is so brief that it may be quoted at length.

We take this occasion to call your attention to certain conclusions which have been drawn directly from the facts presented in the report.

1. Certain of the major factors in the normal cost of production which must be met by all manufacturers are entirely absent in the case of prison industries. If anything approaching normal efficiencies of operation can be attained with the use of prison facilities and labor, the total costs of production are obviously below those of the manufacturer who must meet large overhead expenses as well as employ free labor.

2. It is the universal belief that prisoners should be usefully occupied, whether as a part of their punishment or as a means of rehabilitation by teaching them habits of industry. To this end nearly every State has projects either under way or in contem-

plation for increasing its facilities for providing productive work for its prisoners. As a result, although many idle prisoners are reported, the percentage of those not usefully employed is being constantly diminished.

3. The volume of goods produced by prison labor is already very large in some lines, but as more prisoners are put to work and as the industries become more efficient the output of our prisons will be greatly increased.

4. The effect of placing on the open market a volume of goods which have been produced below normal costs is to lower prices and disorganize the market. While at any time this practice tends to bring about unfair competitive price conditions, the effect is more keenly felt when there is overproduction. The increase in prison production which is predicted will make it difficult if not impossible for manufacturers employing free labor to continue operation in trades where the prison output becomes heavy.

5. The solution of this problem, if prison production is to continue—and all agree that it should—would seem to be the elimination in one way or another, of the direct price competition of the prison products with so-called "free" products. Only two methods have been proposed for the elimination of such direct price competition. First, by identifying the prison products so that prices quoted on them would not directly affect market prices generally on similar goods. Differentiation obvious to the buyer would make it possible to sell similar goods even in the same retail store with different prices for the prison products and the "free" made products. Second, by removing prison products entirely from the open markets.

6. Foreign countries, as well as the United States, have experienced difficulties in enforcing the identification of prison products, if they pass into commerce through private hands.

Solutions must be found for these problems. Otherwise, either prison industries must cease and prisoners kept in idleness or the manufacture of products competing with the prison output will become impossible. Either of these developments would be disastrous, and we urge that legislators, prison authorities, and others interested in the situation give careful consideration to finding a solution.

In view of the fact that the problem is essentially a State problem, because most of the output comes from State prisons, there is little that the Federal Government can do beyond upholding the States in the efforts which they make toward solution (pp. vi-vii).

There are however two minority reports. One of these is submitted by Mr. Henry Pope, who represented on the Committee the Prison Contractor's point of view, and urged the great importance of keeping prisoners occupied, the small proportion which prison-made goods make of the whole sum of manufactured products, the necessity of allowing the goods to pass into interstate commerce, the handicap of anything like identification, and the importance of the federal government's keeping its hands off until it has worked out for the federal prisons a policy so satisfactory that the states can be encouraged to follow. The other report was submitted by Mr. Sanford Bates, then Commissioner of Corrections in Massachusetts, now Superintendent of Prisons under the United States Department of Justice. Mr. Bates made the point that the public were interested not only in the business aspects but in the social problems

connected with the subject. Several paragraphs from Mr. Bates's report are indeed well worth their likewise being quoted at length:

> The present report treats the subject almost entirely from a business point of view, and while an honest attempt has been made to give in that report some of the questions which have been raised by persons who take other viewpoints the report still lacks definite and authentic information which would aid Congress in deciding upon the advisability of certain legislation aimed to curtail prison production.
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> All prison production reduces the amount of production outside. The major question is not how this production can be most painlessly reduced but whether, for the general benefit of society, it ought to be reduced. It may be that the interests of business firms and labor unions might be found to be subservient to the general interest of the consuming public. I find no discussion of this question in the report nor any facts which would aid Congress in deciding it. The Nation certainly has great interest in the success of its business men, but it also has a tremendous stake in the reduction of its crime bill and the restoration or maintenance of the virtue and the ability of its citizens. . . . .
>
> One reads this report and fails to find a definite, positive record of the facts regarding prison production as compared with free production; fails to find a careful analysis of the quality of prison-made goods as compared with free goods outside; misses entirely the evidence to the effect that modern prison workshops, carried on under the authority of the Government, are, if anything, cleaner, more modern, more hygienic than many of the shops maintained by private industry; and one further sees no evidence adduced as to the general welfare of the citizens of this country, irrespective of their industrial affiliations, under the free or restricted circulation of prison products.
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> The desires of the majority members of the committee signing the letter, representing some of the manufacturing interests and labor unions, first, to install the exclusive State-use system in the prisons of the country, and, second, thereby and by other proposed devices to curtail prison production—although perfectly natural desires, to be sure, and properly mentioned in a business report—receive undue emphasis.
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> As a member of this committee I have two purposes in mind: First, to advocate a system of prison labor which would best fulfill the purposes of our prisons, namely, the protection of the public through the rehabilitation of the prisoner; and, second, to join with persons of differing viewpoints in the establishment of that particular policy which will work the greatest good to the greatest number of our citizens (pp. ix-x).

The report while brief contains (1) a brief statement with reference to the methods in handling the subject employed in each state, (2) an Appendix giving cost figures for the manufacture of men's work shoes under the state-use, under the contract, under a system using both the state-use and public account, and a comparison of these costs with that in a "free factory." Similar figures are given for flat top desks, and for the manufacture of twine. A second Appendix gives figures of prison products by states, giving the number of employees, the methods of management, the market in which the goods are sold, and the return to the state. A third Appendix contains interesting facts with reference to the manufacture and purchase of license tags. There is a typical prison contractor's agreement, and a very extensive bibliography.

"The Care of the Aged and Infirm of Ohio," *Ohio Welfare Bulletin*, Vol. VI, No. 1 (July, 1929). Columbus, Ohio: Division of Charities, Department of Public Welfare, 1929. Pp. 66.

This is said to be the "Century of the Child," but the aged, too, are coming into their own. The *Ohio Welfare Bulletin* for July, 1929, is devoted to the subject of "The Care of the Aged and Infirm in Ohio." It contains a brief history of the development of the use of the county infirmaries, which fifty years ago were crowded with children, idiots, the insane, the epileptic, the blind, and the crippled, as well as the aged. Gradually the children, the tubercular, and the insane have been removed. The population now is made up about half and half of feeble-minded and of aged. The care of neither group is what it should be, and the plight of the aged of normal mentality is very sad. It is also true that in the hope of using the labor of patients many of the homes have been located on extensive farms when there are no able-bodied patients to work on the farm. Some counties, such as Champaign, Franklin, Hamilton, Lucas, and Summit, have either erected separate hospital buildings or established a well-equipped hospital in a wing of the main building. Some counties, such as Clinton, Miami, Richland, Tuscarawas, and Warren, have recently built new county homes along hospital lines. Although some rural counties are installing hospital wards and more than $6,000,000 has been expended within the past three years on this type of development, many homes are without hospital equipment or service and also without the labor necessary to develop the farm.

The homes are said to face especially the problems (1) of how to cope with the increase in feeble-minded persons, (2) of providing hospital care for chronically ill persons, (3) of eliminating cases of malignant disease, and (4) of securing proper mental and physical classification.

The *Bulletin* contains interesting facts with reference to the private homes for the aged, of which there are seventy described as regularly constituted homes, twenty smaller ones "wholly private" in character.

There is a set of suggested minimum standards for homes, dealing with such subjects as the superintendent, rules and regulations, the staff, the inmates, the institutional régime, food, social service, records, building, land, quarters, sanitation, clothing, occupation, recreation, religious services, burials, and public health precaution. Under the food topic there is a "skeleton menu" prepared by the Home Economics Department of the State University.

There are some interesting figures with reference to the present population, a directory of private homes, and the laws relating to homes for the aged and infirm are cited at length. The *Bulletin* should be very useful to the superintendents of both public and private institutions, and its utility should by no means be regarded as limited to Ohio.

*Children's Code of Wisconsin.* Milwaukee, Wis.: Children's Code Committee, Wisconsin Conference of Social Work, 1929. Pp. 77.

Wisconsin has now been added to the constantly growing list of states which have taken a comprehensive view of their legislation affecting children and have brought together in more logical and orderly shape what had been on the whole more or less accidental and haphazard. The newly enacted Code can be found as chapter 439 of the Laws of Wisconsin for 1929. The committee responsible for its drafting and its enactment have, however, published the Code in this convenient pamphlet form with a helpful analysis and "Explanatory Notes," which will greatly facilitate its study by the child welfare workers of the state. The Code includes topics dealing with neglected, dependent, and delinquent children and adoption. There is a new Juvenile Court Law, which contains better, that is, more consistent, definitions of neglected and delinquent children, extends the probationary period to twenty-one years of age, gives additional power in the cases of parents who contribute to the dependency and delinquency of their children, permits the appointment of a woman referee, defines more closely the conditions under which parental rights may be terminated, and outlines the methods to be employed when children are detained, having in mind the less populous counties.

There are interesting sections dealing with County Children's Boards, likewise with the less populous counties especially in mind; and an effort is made to facilitate the use of all the resources of the private institutions and agencies of the state to the best advantage of the children. This is sought by a comprehensive system of licensing in which the State Board of Control is the central authority, under whose inspection and supervision the licensed institution will operate. There are sections devoted to maternity homes, adoptions, mothers' aid, illegitimacy, and the State Board of Control in relation to these aspects of its work.

The experience of the Wisconsin Committee will be most helpful to similar bodies in other states, and this publication is especially useful to persons in other states who are attacking the same questions.

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*Statistics of Education of the Negro Race, 1925–26.* By D. T. Blose. (U.S. Bureau of Education Bulletin [1928], No. 19.) Washington, D.C., 1928. Pp. 42.

In this study statistics are given that have been secured from the best information furnished by state departments of education, private high schools and academies, teacher-training institutions, colleges, universities, and professional schools for the year 1925–26. Information on elementary education in certain sections of the country where segregation is not practiced could not be secured.

Tables are given showing the rapid progress made educationally throughout

this country in the development of Negro education, the increase in number of pupils and of schools, in teacher-training, in salaries paid, in average daily attendance, in school attainment, in school property, and in higher education.

Mr. Blose says that probably at no time in history has such rapid progress been made educationally, oftentimes under unfavorable circumstances, by any people as has been made by the Negro in this short period.

W. W.

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*Laws Relating to Compulsory Education.* By WARD W. KEESECKER. (U.S. Bureau of Education Bulletin [1928], No. 20.) Washington, D.C., 1929. Pp. iv+70.

This study aims to present a summary of the most interesting legislative features of compulsory educational systems in the various states, answering questions regarding the date of compulsory school attendance, educational requirements necessary to school exemption, education required for labor permits, educational relief to dependent children, education for handicapped children, continuation schools, machinery for enforcing compulsory education, and similar questions. These are only a few of the many questions that school administrators, teachers, and social workers are continually asking in their work with children.

Mr. Keesecker says that a close study of compulsory school attendance laws and the corresponding school attendance in states indicates considerable correlation between certain laws and the amount of attendance. The laws of higher standards seem to be producing better attendance and consequently less illiteracy. For example, a law requiring attendance from seven to seventeen may well be expected to secure more school attendance than a law requiring attendance from eight to fourteen. More attendance is likewise expected from a minimum school term of nine months than one of six months. A law requiring an eighth-grade education for labor permits would require more school attendance than one requiring only a fifth- or sixth-grade education or only the ability to read and write. Moreover, better enforcement would naturally be expected from a law requiring that truancy be reported immediately or within twenty-four hours than from one requiring that truancy be reported weekly; and the law with a penalty provision for neglect of duty by teachers and attendance officers is likely to be more effective than one without such provision, and also a law which defines truancy may obtain a more satisfactory court judgment than one without such definition.

Certain tendencies in the development of compulsory education laws are pointed out: to lengthen period of compulsory education by making it effective at an earlier and to a later stage, to increase annual required school attendance, to extend provision to include various handicapped children, to require more education for exemption and for labor permits, to require public relief to de-

pendent children, and to provide transportation for children not living within usual walking distance from school.

Many who do not know the whole story may be most complacent, feeling we have universal opportunity for education and also universal compulsory education laws throughout this country. It is well for us to have such studies as Mr. Keesecker's to have it made clear that, although on the whole we are progressing, the work is not completed, and that children in our various states are not receiving equal benefits from public-school systems.

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*Migratory Child Workers and School Attendance* (Pennsylvania Department of Labor and Industry, Special Bulletin No. 26). Harrisburg, 1928. Pp. 20.

*A History of Child Labor Legislation in Pennsylvania* (Pennsylvania Department of Labor and Industry, Special Bulletin No. 27). Harrisburg, 1928. Pp. 31.

*The Mentally and Educationally Retarded Child Laborer* (Maryland Board of Labor and Statistics). Baltimore, 1929. Pp. 38.

*Berry and Vegetable Pickers in Maryland Fields: Child Labor in Vegetable Canneries in Maryland* (Maryland Board of Labor and Statistics). Baltimore, 1929. Pp. 26.

Some new and interesting child-labor studies have come from both Pennsylvania and Maryland. The Bureau of Women and Children of the Department of Labor and Industry of Pennsylvania gives us two interesting bulletins. *Migratory Child Workers and School Attendance* is a study made of all Philadelphia elementary-school children enrolled in the public and parish schools who returned late to their classes in the fall of 1927 because they or their families had been engaged in farm labor. Nearly two thousand children were included, most of whom were actually employed but were under fourteen years of age. These children who lost from one to over three months of schooling were found to be greatly retarded in school. Bulletin No. 27 presents a discussion of the Child Labor Law of Pennsylvania under the headings of "Education," "Age," "Hours," "Health and Safety," and "Methods of Enforcement." A chronological history of the legislation affecting each of these five phases of the child-labor law is given, bringing out especially the influences on the development of the present law.

The first of the two studies issued by the Commissioner of Labor and Statistics in Maryland is a study of a number of applications for special work permits by children in Baltimore city schools. An average of 220 mentally and educationally retarded children leave these schools for industry each year. They are school failures with little training for work, leaving primarily because of the unadjustment between themselves and the schools. Suggestions are made as to the best ways of meeting this problem in the schools.

*Berry and Vegetable Pickers in Maryland Fields* deals with the large number of young children leaving the city with their parents to work in the fields and canneries. The terrible living conditions to which these children and their parents are exposed are described. The serious educational problem of taking children from school several weeks early in the spring and returning them late in the fall, causing school retardation, is discussed.

W. W.

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*Community Welfare in San Diego.* By GEORGE B. MANGOLD, assisted by S. LUCILE THOMPSON. A Survey conducted under the joint auspices of the Community Welfare Council of San Diego, San Diego County Welfare Commission, and City of San Diego. San Diego, California, 1929. Pp. 205.

Courses in community organization and conference discussions of the subject have until recently stressed primarily the responsibility of private agencies in developing plans to meet local needs. Public departments have usually been completely ignored. Hence a belief sprang up that the problem of community organization was one of trying to use the tax-supported agencies, which were tacitly assumed to be reactionary, without expecting any important contribution from them in the field of social planning.

Dr. Mangold's survey of San Diego is of unusual significance in its complete abandonment of that traditional and short-sighted point of view. Underlying his entire report is the philosophy that the community must bestir itself if it desires to mitigate social ills, that certain instrumentalities exist for attaining this end, some of which are public and others of which are private, and that the responsibility for social planning rests with equal weight upon both.

It is significant not only that the study was conducted jointly by the city of San Diego and the county of San Diego, representing the public agencies, and the San Diego Community Chest, representing the private organizations, but also that the expense of the survey was shared by the three groups. Moreover, in a section of the report devoted to a statement of fundamental social service principles applicable to San Diego, the following is first in the list: "Public and private philanthropy are not two separate antithetical modes of service. They are merely two wings of a common unified program." Again and again throughout the 205 pages of the report the principle is reiterated that the schools, the courts, and the various public commissions must be regarded as full working partners in the function of community planning. No council of social agencies must be permitted to come into being, it is pointed out, that would ignore this principle or that would relinquish the control of the council to the fund-raising section represented by the private community chest agencies.

The recommendation that a charities indorsement bureau be established provides further evidence of the author's belief that public agencies should play an important rôle in community planning. Traditionally these indorse-

ment bureaus have been fostered by chambers of commerce. Dr. Mangold suggests the creation by municipal ordinance of a public social service commission to investigate and indorse charities. In the event of miscarriage of this plan, he proposes an indorsement bureau managed by an all-inclusive council of social agencies in the control of which public as well as private organizations would participate.

The first section of the report summarizes the thirty-seven findings and recommendations of the survey. Subsequent sections discuss each of these recommendations in detail, drawing freely upon statistical, historical, and statutory material for fact and for proof. The discussion of the division of responsibility between the County Welfare Commission and the private case-working agencies will prove of special interest to family workers. The gap in provision of medical care for the low income groups, as contrasted with the facilities for the rich and for the indigent, is pointed out. Immediate relief is proposed through the establishment of a part-pay clinic, and through a change in the policy of the County Hospital whereby patients not eligible for free care may be admitted on a part-pay basis. The findings range in this fashion throughout the entire field of social work, from the treatment of criminals to the expanding social obligations of the public schools. In almost every section the "public interest" involved in social work is stressed, and, as a corollary, the need for more accurate statistical data and more frequent publication of reports is emphasized. Doubtless this need was impressed upon Dr. Mangold during the course of his investigation. At any rate, in a few instances, the statistical data he quotes appear to be of dubious value. Despite this defect, which was probably inescapable, the report is clear and convincing and is characterized throughout by a liberal and informed point of view.

A. W. M.

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*Statistics of Industrial Accidents in the United States to the End of 1927* (United States Department of Labor Bureau of Labor Statistics Bulletin No. 490). Washington, D.C.: Government Printing Office, 1929. Pp. iv+187. $0.30.

This excellent bulletin provides a useful review of the situation regarding industrial accident statistics and their relation to a program promoting safety in industry. Forty-four states now have compensation laws, but the state laws and procedures are sufficiently different to make it difficult if not impossible to combine the data from the various records in any useful way. The Bureau of Labor Statistics has been making a very persistent and helpful effort to interest state boards and commissions in the proper registration of accident statistics, although the present bulletin points out that a complete compilation of industrial accident statistics has never been attempted by any government agency. Here, again, insufficient appropriations have made impossible the nation-wide first-hand survey of industry rendered necessary by the absence of

provisions in state laws calling for uniform methods of reporting accident data, including definitions, industry classification, report forms, time and extent of reporting, etc., and the centralization of such records in some federal department at Washington.

The Bureau has issued four earlier bulletins in this field: Bulletin No. 78, *Industrial Accodents;* Bulletin No. 157, *Industrial Accident Statistics;* Bulletin No. 339, *Statistics of Industrial Accidents in the United States;* Bulletin No. 425, *Record of Industrial Accidents in the United States to 1925.*

The present bulletin, which brings the statistical data regarding industrial accidents down to the year 1927–28 includes data covering the following:

1. Manufacturing industries (except the iron and steel industry, which is treated separately in chapter iv).
2. Iron and steel industry.
3. Mines, quarries, and metallurgical works.
4. Steam and electric railways.
5. Federal departments.
6. Members of the National Safety Council.

Accident rates are extremely important because they can serve genuinely preventive purposes in the hands of intelligent safety experts. The bulletin contains an interesting statement on this point:

> In 1910, before the accident situation was brought forcibly to the attention of the officials in that great industry through the computing and classification of accident rates, the workers were being killed and injured at the rate of 74.7 for every million man-hours of exposure, and for every thousand hours of exposure 7.2 days were being lost on account of disabling accidents. This was, of course, recognized as a serious economic loss that should be prevented. A definite safety policy was inaugurated and has been consistently maintained and rigorously enforced throughout the years, resulting in material, though intermittent, decrease in accident rates, until in 1927 the frequency rate had declined to 19.7 and the severity rate to 2.3, a drop of nearly 74 per cent in the former and of about 56 per cent in the latter.

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*Report by the Select Committee of the House of Lords on the Age of Marriage Bill* [*H.L.*] *together with the Proceedings of the Committee and Minutes of Evidence* (Great Britain. Parliament). (90.66) London: His Majesty's Stationery Office, 1929. Pp. 42. 2*s.*

Social workers in the United States who have followed the legislation in the various states stimulated by Miss Richmond's *Child Marriages* and Richmond and Hall's *Marriage and the State* will find this *Report* of the House of Lords' Select Committee extremely interesting reading. And students of the marriage law will likewise be interested in the way in which the members of the Committee took advantage of the opportunity to inform themselves on the subject of various aspects of the law dealt with under the law of persons or domestic relations. Lord Hardwicke's act of 1753, Blackstone's *Commentaries,* Halsbury's

*Laws of England* all come in for exposition and interpretation, and on the question whether the marriage of persons one or both of whom might be below the required age was void or voidable Sir Archibald Bodkin, Public Prosecutor, and Sir Lewis Dibdin, Vicar-General and Master of the Faculties, from whose office all marriage licenses are issued, took diametrically opposing views.

The purpose of the Committee was the consideration of the bill intended (1) to raise the minimum age of marriage, which is twelve for the girl and fourteen for the boy, to sixteen for both, sixteen being the age at which either could consent to an indecent assault; (2) to change the status of marriages between parties either or both of whom might be below sixteen from voidable, as they are now interpreted by some legal writers, to be null and void *ab initio;* (3) to give some protection to the man who might genuinely have thought the girl sixteen or over and who should not therefore be liable to the very severe treatment provided under certain amendments to the Criminal Law Act passed in 1922; and (4) to make some provision for the possible legitimation of children born of a marriage entered into under a true misapprehension as to the age of the parties.

The passage of the bill, which became a law last year,[1] was unanimously recommended by the Committee after taking interesting testimony not only from the two officials mentioned but from representatives of the great women's organizations, both non-sectarian and Catholic, and the Mothers' Union and the officials of the Home Office, the national department which has to do with prosecutions under the marriage acts and also is represented on the League of Nations Committee on Traffic in Women and Girls and on Child Welfare.

This is an interesting illustration of the way in which participation in international affairs tends to bring every country up to what might be called the international minimum fixed by the public opinion of the time. In urging the legal raising of the marriage age for those countries which not only are below the level fixed by the moral sense of the time in law but take advantage of that for the exploitation of young girls under the guise of marriage, Great Britain, where very few such early marriages occur, found herself embarrassed in urging amendments upon the offending states. In the four years 1924, 1925, 1926, 1927, not more than 123 marriages occurred in Great Britain in which either party was under sixteen, 8 girls were under fifteen, and 4 boys and 111 girls were fifteen and under sixteen.

The testimony given both by the officials and by the representatives of the great organizations and the questioning of the "Lords" on the content and meaning of the law make interesting reading to the social workers now trying to amend the laws of the American commonwealths which in the words of one witness "goes one worse the European countries placed at the bottom of the list" in their protection against child marriages (p. 12).

S. P. B.

[1] L.R., Great Britain Statutes, 19–20 George V, c. 26.